IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION

THE STATE OF TEXAS, Plaintiff	)	
VS.	)	CIVIL ACTION NO. 5-96CV91
THE AMERICAN TOBACCO COMPANY ET AL Defendants	)	

ORAL DEPOSITION
OF
PATRICIA STOUT, Ph.D.
VOLUME ONE

(ACCOMPANIES VIDEOTAPE)

AUGUST 21, 1997

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PTS 475

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION

THE STATE OF TEXAS,	)	
	)	
	)	
	)	
VS.	)	CIVIL ACTION
	)	NO. 5-96CV91
	)	
THE AMERICAN TOBACCO COMPANY; R.J. REYNOLDS TOBACCO COMPANY; BROWN & WILLIAMSON TOBACCO CORPORATION; B.A.T. INDUSTRIES, P.L.C.; PHILIP MORRIS, INC.; LIGGETT GROUP, INC.; LORILLARD TOBACCO COMPANY, INC.; UNITED STATES TOBACCO COMPANY; HILL & KNOWLTON, INC.; THE COUNCIL FOR TOBACCO RESEARCH-USA, INC. (Successor to Tobacco Institute Research Committee); AND THE TOBACCO INSTITUTE, INC.,	)	
Defendants	)	

* *

ORAL DEPOSITION OF PATRICIA STOUT, Ph.D.

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ANSWERS AND DEPOSITION OF PATRICIA STOUT, Ph.D., a witness called by the DEFENDANT PHILIP MORRIS, taken before Deborah L. Fitzpatrick, Certified Court Reporter for the State of Texas, on AUGUST 21, 1997, beginning at 9:23 a.m. and ending at 5:36 p.m., at the offices of the Attorney General of the State of Texas, 300 West 15th Street, Austin, Texas 78701, pursuant to the Federal Rules of Civil Procedure.

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(Marked, Exhibit No. 1, Amended notice of deposition upon oral examination of Patricia Stout). 08:5

(Marked, Exhibit No. 2, Curriculum vitae of Patricia Stout). 08:5

THE VIDEOGRAPHER: This is a videotaped oral deposition of Patricia Stout being taken at the Attorney General's office, Clement Building in Austin Texas. It's been noticed by the defendant in the matter of the State of Texas versus the American Tobacco Company, et al. Civil action number 5-96CV91, U.S. District Court, Eastern District of Texas, Texarkana Division. Today's date is August 21st, 1997. The approximate time is 9:23 a.m. 09:2

Counsel will now introduce themselves for the record. 09:2

(Counsel introduce themselves). 09:2

PATRICIA STOUT, Ph.D.

was called as a witness and, having been first duly sworn, testified as follows:

EXAMINATION

BY MS. TYLER: 09:2

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Q. Professor Stout, as I mentioned, my name is Julia Tyler and I'm with the law firm of Johnson & Tyler in Washington, D.C., and I represent Philip Morris in this matter.

The first document you have before you underneath there is a notice of deposition, which has been marked as Stout Exhibit 1.

Are you appearing today pursuant to that notice of deposition?

A. Yes, I am.

Q. You've seen that document before?

A. I don't believe I have seen this exact document, no.

Q. But your counsel informed you that a notice of deposition had been sent --

A. Right.

Q. -- and that you were to appear today?

A. Right. That I was scheduled for today.

Q. Have you ever been deposed before, Professor Stout?

A. No, I have not.

Q. I'm just going to cover a few ground rules with you, so that things go smoothly. You're sworn to tell the truth, you understand that?

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A. I do.
Q. And you need to answer verbally because as talented as our court reporter is here she cannot take down a nod of the head and uh-huhs sounds the same on the record as unh-unhs.
So I need you need to answer verbally with yes or no, whatever is appropriate. And if you don't understand a question, feel free to ask me to repeat it or rephrase it. Otherwise, I will assume you've understood the question that I'm asking and that you are answering that question.
A. Okay.
Q. Is that fair?
A. That's fair.
Q. Also, please let me try to finish my question before you answer, and I'll try to return the favor.
A. All right.
Q. This is not an endurance test, so that if you need a break, go to the bathroom, need a beverage, anything like that, just let me know and I'll go happy to accommodate you.
A. Okay. Thank you.
Q. Can we agreed to these rules?

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A. We can. 09:24
Q. Okay. Have you ever testified in court? 09:24
A. No, I have not. 09:24
Q. What is your professional address? 09:24
A. I'm in the Department of Advertising, and in the Dean's Office of the College of Communication, so I have a split appointment right now. 09:24
Q. What do you do for the Dean's Office? 09:24
A. I'm an associate Dean for Academic Affairs, and then I'm an Associate Professor in Advertising. 09:25
Q. And is that within the School of Communications; the associate professorship about which we're talking -- 09:25
A. Right. They're both in the College of Communications. 09:25
Q. Within the College of Communications. 09:25
Professor Stout, when were you first contacted as appearing as an expert in this case? 09:25
A. I believe it was probably April of this year. 09:25
Q. And who contacted you? 09:25
A. I was contacted by Hugh McNeely. 09:25
Q. Had you ever met Hugh McNeely before this 09:25

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contact? 09:2
A. No, I had not. 09:2
Q. Did he call you on the phone or did you meet in person? 09:2
A. He -- our first meeting -- well, he phoned first before we met physically. We did have a meeting, but he telephoned first. 09:2
Q. Was the purpose of this meeting to set up a face-to-face meeting? 09:2
A. I believe so. As I say, I can't recall the entire content of the discussion, but obviously, he had presented the issue at that time and we agreed to a lunch meeting at a later date. 09:2
Q. Did you meet here in Austin? 09:2
A. We did. 09:2
Q. When did you meet? 09:2
A. Again, in April -- mid-April, it would have been soon after the phone call. 09:2
Q. How soon after the phone call was your meeting? 09:2
A. Probably a week or so. I don't know for sure, but as soon as I would have been able to set it up. 09:2
Q. And you met with Hugh McNeely at that meeting? 09:2

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A. Right.
Q. Was anyone else in attendance?
A. Yes, there was.
Q. Who was that?
A. That was Harry Potter with the Attorney General's office.
Q. Anyone else?
A. No. Just the three of us.
Q. Do you know how Hugh McNeely came to contact you regarding this case?
A. I don't exactly know.
Q. Did you agree to serve as an expert witness on the telephone during that first phone conversation?
A. I would not have. I would have needed to have more information about what the -- what he wanted to talk about, so ...
Q. Did you agree to serve as an expert witness during your meeting in Austin following that first conversation?
A. I probably expressed interest in a possible involvement with the case. I can't recall whether or not I was asked specifically at that time to serve as an expert witness or not.

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Q. And why did you express interest in possible involvement at that first meeting?

A. Well, I think, as you undoubtedly can see from my vitae, I've done a lot of work on health-related issues. And cigarette smoking in my mind is one of those issues. And so I would have expressed an interest based on that.

Q. But you hadn't done any research specific to cigarette smoking prior to that first meeting with Hugh McNeely, had you?

A. I haven't published any articles that specifically look at the relationship with tobacco and advertising, no.

Q. And plaintiff's counsel had not shown you any documents -- or did not show you any documents during that first meeting; is that correct?

A. No, I saw no documents.

Q. But as a general matter, you expressed interest in participating as a witness?

A. Well, I believe at the meeting Hugh McNeely had stated that there was a possibility that I might be included on a list, so it's my understanding there would be a list of people who would be witnessing and that I might be

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one of those.
Q. And did he --
A. And so --
Q. I'm sorry. I didn't mean to interrupt you.
A. That's all right. So it wasn't clear-cut like yes, no, will you do it today or not. It was still in a formative kind of process.
Q. Did he ask for your consent to be on that list?
A. He asked if I would consider, yes, and I did, I think, agree to that.
Q. When was your next meeting with counsel for the State in this case?
A. I don't recollect the exact date. Probably -- probably maybe three or four weeks, it might have been three or four weeks hence.
Q. And was that meeting also in Austin?
A. It was.
Q. And who attended that meeting?
A. That meeting, again, was with Hugh McNeely and -- who else was there? Alan Pollock, who is with MGT of America and -- I don't remember everybody that was there.
Q. Why was Alan Pollock in attendance at this meeting?

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A. I believe that his company was an independent resource for collecting some of the data that I reviewed.

Q. Do you know what MGT of America is?

A. My understanding is that it is a firm that does primary research. They also do assessment of organizations -- managerial types of assessments.

Q. What kind of primary research do they do?

A. Well, I don't know what kind of primary research they do in general. I think that they were contacted in this instance relative to helping to gather materials that I would be reviewing.

Q. Did you have any experience with MGT of America prior to this meeting in roughly May of 1997?

A. No.

Q. Had you --

A. I had not.

Q. I'm sorry. I'm interrupting you. Had you ever heard of them?

A. No, I had not.

Q. Do you know anything about the reputation of MGT of America?

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A. Only, I guess, what I have formed as my own opinion based on the experience that I've had with that particular company since I've been engaged in this case.

Q. My understanding is that MGT of America has provided you with documents?

A. There are some documents that I have reviewed that I believe they have collected, yes.

Q. But you're not even sure that they've collected those documents?

A. I would say they have collected some. I believe as part of my materials that have been deposited -- what's the word I want here?

Q. Produced?

A. Produced, yeah; that there is an inventory of materials that they have supplied to me, so ...

Q. And do you know how they obtained these materials?

A. To -- what do you mean how they obtained them?

Q. Well, before they produced them to you, do you know how they obtained the materials that they produced to you?

A. I assume they gathered the materials -- that someone from their firm gathered the

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materials.
Q. But you don't know that?
A. I have a good sense that that happened in some cases, yes.
Q. Where do you get that sense?
A. On at least one occasion, I accompanied members of MGT to collect information, so ...
Q. Did you give instructions to MGT of America regarding materials that you would like to review?
A. We did have a discussion relative to collection of materials, yes.
Q. You had a discussion. Can you be more specific?
A. Well, I had -- the discussion would have concerned the method by which materials might be collected.
Q. And did you instruct them on the method with which you wanted them to obtain materials for you?
A. Not exactly, no. I had probably discussed relative to what would be accepted ways that materials of this type would be collected.
Q. And what did you tell them about accepted ways of collecting materials?

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A. Well, when one collects a sample of materials, one tries to get a broad sample, tries to obviously be looking at different sources for materials. 09:3
Q. Anything else? 09:3
A. There may have been other things, but I don't recall at the moment. 09:3
Q. When you went with one of these MGT of America -- who did you travel with when you said you went on a research -- you went with one of them to a site? 09:3
A. Right. 09:3
Q. Who was that? 09:3
A. I had traveled with Alan Pollock was on that trip, and then John Warren, who is also with that company. 09:3
Q. What is Alan Pollock's position at MGT of America? 09:3
A. He is -- I don't have -- I probably have his card in my purse with his title on it, but he is up in management in the firm -- of that firm. 09:3
Q. He's in management? 09:3
A. Right. 09:3
Q. Is he a researcher? 09:3

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A. He has been a researcher, yes.
Q. Is he currently a researcher?
A. I imagine he does research as part of his job.
Q. But you don't know?
A. I don't know for a fact.
Q. And John Warren; what is his position?
A. I don't know his exact title, but I do know that he does research for the firm.
Q. Do you know anything about -- do you know that -- strike that.

Do you know that John Warren was doing the research to produce documents for your review?

A. I know that he did at least some of it because, as I say, I was with him on an occasion or so.
Q. Do you know anything about his credentials as a researcher?
A. I do, although I can't recall now. I know that we had discussed his background and his education. I know -- I believe he has a degree in political science or government, so he has college education, and I would assume the background necessary for doing different types of research. Certainly not all kinds of

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research. I wouldn't he'd do neurosurgery research or something, but social science research, I suppose.

Q. You say you assume he has the appropriate background. You don't know that he has the appropriate background?

A. I have not seen his vitae or his resume.

Q. Who else obtained materials for your review?

A. I have materials from a number of different sources. I have obtained some of those materials; both as primary research for this case as well as from my files that I've collected over the years. I also have materials that were -- that I gathered from other sources -- students, for example, I've worked -- I teach courses where students pick tobacco advertising and children's advertising issues. And I queried those students if I could have copies of the materials that they had, that they'd collected for their course work.

Where else? I have documents that were provided to me by counsel. And I think that's it. So they were gathered from several sources.

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Q. Apart from John Warren and Alan Pollock, who do you think within MGT of America conducted research for you? 09:3

A. I wouldn't know besides those two. Those were the only two that I'm familiar with. 09:3

Q. But I think you testified that John Warren was -- that there were others within MGT of America who provided you with documents? 09:3

A. Well, there are other people who work there, I assume, but I don't know, like I say, my assumption is that firm acted as an independent source. 09:3

Q. Do you know who paid MGT of America? 09:3

A. I don't know. I -- I don't know for a fact. 09:3

Q. Because you said that you assumed they were an independent source. 09:3

A. Right.

Q. On what do you base that assumption? 09:3

A. Well, I mean, they were independent meaning that certainly they were -- they're certainly independent from me, and I assume they were paid and my guess would be they would be paid by the -- the plaintiffs in the case, but I don't know that for a fact. 09:3

Q. Do you think that that makes them independent? 09:3

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A. Well, it makes them independent from me, so ... 09:3
Q. What did you tell MGT of America regarding acceptable sources to obtain information? 09:3
A. What do you mean by acceptable sources? 09:3
Q. Sources of information; individuals, certain periodicals, Congress proceedings; what did you tell them would be appropriate sources from which to obtain the information they were sending you? 09:3
A. Well, I think that I would be looking to get a -- since I did not have a complete set of documents, certainly, of all of the published articles or work on tobacco and advertising, as well as a limited collection myself, personally, of examples of advertising, that I was looking to expand on that collection, so that I would have something broader to look at than what was in my own personal archives at the point in time which was early spring. 09:3
Q. But in terms of appropriate sources, where did you tell them to look? 09:3
A. Well -- 09:3
Q. Or did you tell them to look any particular place? 09:3

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A. I probably didn't -- well, I would have been -- I probably -- I can't recall exactly, but I probably would have been looking for sources that would be sources -- depending on the types of materials, if these are advertising materials, they would be sources that individuals in Texas would have been exposed to. So they would have been media that people would have seen if they lived in Texas. 09:3

Also, then articles that would have been published articles in, again, media in Texas that could be newspapers or magazines that are in Texas or national publications that might be distributed in Texas and/or any other kinds of search. I do believe, for example, that I got some Web downloads. So just, you know, surfing the Net and finding information. 09:3

Q. So to recap, it sounds like the categories of documents that you were obtaining from MGT of America were advertisements and articles from Texas publications? 09:3

A. They would tend to be more so, right. 09:3

Q. More so than what? 09:3

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A. I don't think -- I don't think that that is the total. I'm sure we could find an academic article on the list, but -- but that would be the general. 09:39 09:39 09:41 09:40

Q. Did you ask them -- did you ask employees of MGT of America to find academic articles? 09:40 09:40

A. I don't recall that I gave them specific instructions about that. 09:40 09:40

Q. You mentioned that you went to a site with -- I believe it was John Warren? 09:40 09:40

A. Right. 09:40

Q. Where did you go? 09:40

A. To Houston. 09:40

Q. Where in Houston did you go? 09:40

A. To DOC, Doctors Oughta Care. D-O-C, Doctors Oughta Care. 09:40 09:40

Q. Was anyone else with you on this trip? 09:40

A. I believe we made two trips down there. One was with Alan Pollock and John Warren, and another trip I was with John Warren. 09:40 09:40 09:40 09:40

Q. When did you go to DOC? 09:40

A. Probably in May, I would think. Maybe late May would have been the first trip. 09:40 09:41

Q. And when was the second trip? 09:41

A. Probably in June sometime. 09:41

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Q. Approximately how long did you spend at DOC on those trips?
A. It would have been a day trip.
Q. Both times, a day?
A. Right.
Q. So in other words, you went up and back to Houston the same day?
A. Right. Right. That's correct.
Q. Did you meet anyone at DOC when you were there?
A. Yes. Yes, I did.
Q. Who?
A. Eric Solberg, S-o-l-b-e-r-g, who is, I believe his title is the director at that organization.
Q. Did you have -- and you had a conversation with Eric Solberg. How long did you meet with Eric Solberg?
A. He would have been present, I believe, for the most part during the most of the time that I was there.
Q. Did he assist you in gathering materials?
A. Indirectly, yes. I would say yes.
Q. What did you and Eric Solberg discuss during these trips?

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A. The natures of the materials that were available for us to draw from at that source at that site.
Q. And what did he tell you?
A. What we discussed were what types of things that they had of materials that might be relevant to the types of things that would be looked at.
Q. Are you a member of Doctors Oughta Care?
A. No, I'm not.
Q. Did you meet with anyone else from Doctors Oughta Care?
A. I believe at one meeting another person, Joel Dunnington was present for a brief time.
Q. And what did you and Joel Dunnington discuss?
A. Again, I just think in general the types of materials that might be available.
Q. What was your understanding of the types of materials that were available at DOC?
A. My understanding? I'm sorry? I'm not sure I understand the question.
Q. What was your understanding of the documents -- you said you had these conversations with Eric Solberg and Joel Dunnington regarding the types of materials

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that were available --

A. Right.

Q. -- at DOC. What is your understanding of the types of materials that are available to you at DOC? 09:4

A. My understanding was that DOC has a large collection of materials that relate to tobacco-related issues. Some of those materials would include advertising, articles that -- that -- that involve tobacco and advertising. I think you have the word key word. If it was a key word, if you had a key word, and tobacco or advertising, et cetera, were in there, they would have materials related to that.

Also, examples of promotional items that had been collected that had been distributed by tobacco companies, and I think that's it. I think there is also some video -- videotapes that they have of events. So a wide range of materials that the common ground would be tobacco-related. And my assumption would be they had a much larger collection than things, you know, I might be personally interested in seeing.

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Q. Did you meet with anyone else during these trips to DOC?
A. Besides the people whose names I've given you?
Q. Correct.
A. On one occasion, there was Andrea Parker from the Texas Tobacco Litigation was present.
Q. What do you understand the Texas Tobacco Litigation entity to be?
A. Well, my understanding is that there are several law firms that are involved in this case, and that Andrea was with one of those law firms.
Q. So you traveled to DOC on one occasion and conducted research at DOC with Andrea Parker?
A. There was an initial meeting and she was present at that meeting, so the first time we would have traveled down there, I believe it was.
Q. So the first time you traveled to DOC, you were with Alan Pollock, John Warren, and now Andrea Parker; is that correct?
A. Well -- right. We didn't travel together, but she was present at that meeting, as was Eric Solberg, and I believe Joel Dunnington was there that first meeting time, as well.

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Q. Did anyone suggest going to DOC? At whose suggestion did you all travel to DOC? 09:46
A. I don't recall. I don't recall. 09:46
Q. Had you ever heard of DOC before you had been contacted by Hugh McNeely? 09:46
A. I don't believe that I had, no. 09:46
Q. So it wasn't your idea? 09:46
A. Well, no, it wasn't my idea, I don't believe to -- either to travel there, no. 09:46
Q. Was it Hugh McNeely's idea for you to travel to DOC? 09:46
A. I really don't recall. I think that the nature of the underlying visit or DOC -- going to DOC as a result was to have -- to be able to collect materials or to have access to materials -- one set of materials that were Texas-related materials and related to advertising and tobacco. 09:46 09:47 09:47 09:47
Q. Did you think that DOC would be the best source of information on tobacco-related issues? 09:47 09:47 09:47
A. I think that it would be one source of information. Obviously, there would be numerous sources of information for that kind of material. 09:47 09:47 09:47

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Q. Do you recognize -- what do you think the mission of DOC is? 09:4
A. Well, I'm not familiar with their mission. From the title, Doctors Oughta Care, I would assume that they -- that it is a Hypocratic oath mission, I suppose, or -- meaning that for -- that doctors have -- take an oath to protect the -- protect individuals -- the health of individuals. 09:4
Q. Is it your understanding that Doctors Oughta Care is a group that's interested in protecting individuals on all health issues or specific health issues? 09:4
A. I don't really know. I don't really know what their mission is, so I don't believe that I've seen a mission statement, per se, and whether or not that they have multiple issues that they're concerned about. 09:4
Q. But the location that you went to in Houston, did it seem specifically focused on tobacco? 09:4
A. I can't really say. It's -- the location is essentially archival, there are lots of boxes and papers and the like, and so there may be other materials that are there, as well. Like I say, I wasn't particularly interested in 09:4

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those at that time, so ... 09:4
Q. Did you see any documents related to issues that were not tobacco? 09:4
A. I can't recall. Like I say, I wasn't looking -- I wasn't looking to see a wide range of issues. I was only interested in tobacco issues, so for all I know, they may have boxes of archival materials on heart disease and diabetes and other things, but I wasn't searching for those and I don't recall seeing any of those while I was there. 09:4
Q. And was it your testimony that you can't recall who suggested traveling to DOC? 09:4
A. I really can't recall who it was that suggested that, no. 09:4
Q. Do you recognize DOC as an anti-tobacco advocacy group? 09:4
A. Do I personally recognize them as that? 09:4
Q. Uh-huh. 09:4
A. I -- it is my belief that they -- there are obviously multiple sides to many issues and certainly we're here today because there are. And I do believe that they would tend to be on -- identified with one side of an issue and that they would be in support of behaviors and 09:5

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policies that would protect individuals from smoking.

Q. Is that -- was that a yes?

A. What was the question again?

Q. Do you recognize DOC as an anti-tobacco advocacy group?

A. I guess anti-tobacco, that terminology -- I mean, that could be stronger than perhaps. I can't say that -- I can't say that I've read that they say we're anti-tobacco. One can be concerned about health-related issues and not be anti-tobacco, so, but I would say that they were more -- if you had to say, if there is advocacy on where would they more likely on what end of the scale would they be more likely to be advocates, then it would be towards protection on health related to tobacco.

Q. Did you see any pro-tobacco materials when you were down at DOC?

A. Well, it depends on what you mean by pro-tobacco. I mean, I would assume perhaps if advertising for tobacco is pro-tobacco and if premiums and promotional materials are pro-tobacco, then I did see a lot of that,

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yes.
Q. I'm referring to materials which would support the viewpoint of the cigarette manufacturers regarding advertising issues.
A. Well, in the collection in the things that I've seen, I've seen reports from -- like advocacy ads that have been produced by Philip Morris and R.J. Reynolds, and so I have seen -- I assume that that would come under the rubric of pro-tobacco, so the materials -- I'm sorry I'm hesitating, but I guess like if like an ad for cigarettes is pro-tobacco, or if an advocacy ad for tobacco interests is pro-tobacco, then yes, there -- I have seen that.
Q. Well, is it your understanding that DOC criticizes the tobacco industry for publishing advocacy ads?
A. I'm not completely familiar with everything that the organization does. Really, my -- I have had limited contact with them. It has been in relation to this case, and it has been as a source of a site where materials are available.
Q. Have you everybody reviewed a DOC news letter

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published by Alan Blum? 09:5

A. There were newsletters available at the site, and I do believe, as we -- are we still on -- I do believe that I have probably seen one on a table but I haven't -- I've seen one and so reviewed could mean yes, I've seen one, but I haven't read anything. 09:5

Q. Would it surprise you to know that you produced some? 09:5

A. Newsletters? 09:5

Q. Uh-huh. 09:5

A. I would have to see those, I guess. 09:5

Q. I'll be happy to show them to you later. 09:5

A. Okay. 09:5

Q. Professor Stout, have you ever met a woman by the name of Theresa Signoli? 09:5

A. Not to my recollection, no. 09:5

Q. Have you ever met with anyone who has given you instruction as to how to present yourself as a witness at deposition or trial? 09:5

A. Well, I've been meeting with Ed Hohn, but only on what to expect here. This is my first deposition, and so I'm not familiar with the procedure. So we have discussed procedure. 09:5

Q. Is Ed Hohn the only individual with whom you 09:5

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have met regarding presenting yourself at a deposition?

A. Well, I don't know what you mean by presenting myself.

Q. Is Ed Hohn the only individual with whom you have met regarding being a witness at a deposition?

A. Well, I don't know if my conversation with Hugh McNeely is -- you know, is -- counts under what you're asking or not.

Q. How many meetings have you had with your counsel in this case?

A. Two on two different occasions.

Q. You've met with Hugh McNeely --

A. Oh, I see.

Q. -- in April. You met with Hugh McNeely again in May and you've met with Ed Hohn.

A. I'm sorry. Right. Okay. Well, yes, so everyone -- so I have -- I've met with Hugh McNeely. I've met with Andrea Parker. There have been meetings where Andrea was present with Hugh. So in total, are you asking for an estimate of a total number of meetings or --

Q. Yes.

A. Where individuals were present?

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Probably about maybe six where individuals were individually. 09:55

Q. And those individuals as you've testified here today were Hugh McNeely, Andrea Parker and Ed Hohn. Were there others? 09:55

A. At one meeting, Rhett Klok -- Clok is it -- was present. 09:55

Q. I'm sorry Ed? 09:55

A. Rhett, is it C-l-o-k, I think. He's with Texas Tobacco. 09:55

MR. HOHN: K-l-o-k. 09:55

Q. Anyone else? 09:55

A. As counsel? 09:55

Q. Uh-huh. 09:55

A. I don't recall. I don't think so. 09:55

Q. When did you agree to testify as an expert in this case, Professor Stout? 09:55

A. I believe it was -- it had to do with the deadline, I remember, so that there was -- at some point in the case that the list had to be -- a finalized list had to be submitted, and so at that point I had to make a decision whether I would agree to or not, and at that point I did agree. 09:56

Q. So the impetus of your agreeing to testify as 09:56

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an expert in this case was the filing of an expert witness list?

A. I would not say that was the impetus, but that if you're asking me to recall the date, I would look up -- that would be the way that I personally would search my DayTimer or whatever for the date.

Q. Do you recall the date?

A. I don't really, no.

Q. What work had you done regarding tobacco-specific issues prior to that deadline for the State to list its witnesses in this case?

A. Well, I think I had done some research -- general type of research on my own, because as you've said, I have not published directly in the area of advertising and tobacco. Prior to this, though, as I say, I have done health-related research where smoking has been a behavior risk factor, so I have -- I have some knowledge that goes back quite a ways.

Q. So just to recount, you agreed to testify in this case as an expert witness and provide opinions for the State based on your general research and your work for the CDC; is that

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correct?
A. Well, my general research, right; and then any of the health-related projects that I've been on, yes. So Centers for Disease Control is part of that. I have work that I did in the late seventies for the -- for a heart health project at the University of Minnesota, so --
Q. But it was based on your general research that you agreed to testify at that deadline --
A. Right. That and my expertise, my education. I am a professor in advertising. I have lived in the State of Texas since 1984. I do research in health-related messages. I've worked on grant projects that are health related. And so I agreed based on a wide array of reasons.
Q. Had you been to DOC before this deadline?
A. I can't recall. I don't know.
Q. Had you received any documents from MGT of America before this deadline?
A. I don't -- I don't believe so, no.
Q. Had you done any tobacco-specific research prior to this deadline, apart from what you assert is your general background, which may concern tobacco?

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A. What do you mean by specific tobacco research? 09:5
Q. Had you done any research specifically 09:5
pertaining to tobacco advertising? 09:5
A. I had -- I had -- well, I would have done -- I 09:5
would have done some. 09:5
Q. Can you outline that for me? 09:5
A. Well, certainly a review of articles that I 09:5
had, for example, and just obviously more 09:5
attention to the issue. 09:5
Q. But outside things in your own files and your 09:5
own general research, you had done no specific 09:5
tobacco advertising research prior to agreeing 09:5
to testify as an expert witness when that 09:5
deadline arrived; is that correct? 09:5
A. It's difficult for me to answer that question 09:5
because I can't recall the dates of the -- 09:5
what the actual date relative to the -- when a 10:0
person is actually put on a list to be an 10:0
expert witness. So 10:0
Q. Why would -- I think we had agreed that I 10:0
wasn't going to hold you to a date. We were 10:0
just going to agree on that deadline period, 10:0
so my question stands. 10:0
A. Okay. Okay. So, well, I think that as I said 10:0
I would have done a review. I had not, I 10:0

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think, been able to be exposed to all -- certainly hadn't been exposed or reviewed all of the documents at that point in time that I had been reviewing, even up to or meeting, you know, today or when the deposition statement was due. 10:0

Q. Well, in fact, at that deadline, you had not even received any, had you? 10:0

A. Well, that's what I'm saying. I can't recall. I'm trying to place in my mind the chronology of that deadline and meetings with counsel. And so at some point I received a copy of the complaint. 10:0

Q. Did you receive documents relative to tobacco advertising during your meetings with counsel? 10:0

A. No, I did not, I don't believe. I received a copy of the complaint, but I have received -- I've received documents from counsel that I have that have been released to you, so I have received some over the course of the period, but I don't recall that -- up at that point in time, which was early in the spring, that I had received anything specific from counsel. 10:0

Q. When you were first contacted about testifying in this case, Professor Stout, did you 10:0

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recommend anyone else in your department who might be appropriate? 10:

A. I don't believe I did at that time, no. 10:

Q. Who in your department do you think has the most experience in issues related to tobacco and advertising? 10:

A. There are several faculty in my department who have experience in that area. 10:

Q. And who are they? 10:

A. Jef Richards. That's one F, J-e-f, Richards. Gary Wilcox, who is the department chair for advertising also has done research in that area. 10:

MR. HOHN: I'm sorry. I didn't get the first one? 10:

THE WITNESS: Jef Richards. J-e-f, R-i-c-h-a-r-d-s. And the second one is Gary Wilcox, G-a-r-y, W-i-l-c-o-x. 10:

A. Isabella Cunningham, I-s-a-b-e-l-l-a, Cunningham, C-u-n-n-i-n-g-h-a-m. Those are three that come to mind immediately as individuals who have done work in the area of tobacco and advertising. 10:

Q. You obviously know Gary Wilcox; right? 10:

A. He's the chair of my department, yes. 10:

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Q. Do you respect him? 10:
A. I do. 10:
Q. Do you respect his work? 10:
A. He -- I do respect his work. I respect the work of all my colleagues in the department. That's why I continue to work there. 10:
Q. Are you familiar with his work concerning tobacco and advertising? 10:
A. I'm familiar with some of his work. I realize that he has done research in the past looking at the relationship of advertising to sales. 10:
Q. Have you reviewed that work since your first contact with Hugh McNeely in this case? 10:
A. I believe that if I did review it, I don't -- given the nature of the work, I think I was looking at other kinds of issues rather than economic kinds of effects. 10:
Q. Did you not think that economic -- or I should say, the relationship or alleged relationship between aggregate advertising expenditures and increased consumption of cigarettes was not relevant to your inquiry? 10:
A. Not that it wouldn't be relevant to my inquiry, but my understanding was that my expertise, in part, has to do with advertising 10:

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in Texas, and although I would have to look back again at Doctor Wilcox's work, that it's very difficult to get data for -- of the nature -- the type of data that you need to do that kind of research on a -- even on a brand level, let alone on a brand in a state level, so that it would be national. 10:0

Q. But you are aware that Texas is, of course, part of the United States; is that correct? 10:0

A. I am. I think I am, yes. 10:0

Q. It hasn't seceded yet, correct? 10:0

A. Not to my knowledge. 10:0

Q. And you are aware of his conclusions based on his research of cigarette advertising expenditures in the United States that his research reflects there is no relationship between increased aggregate expenditures for cigarette advertising and cigarette -- increasing cigarette consumption; is that correct? 10:0

A. I believe that across the course of all his work there are different conclusions. I mean, various conclusions that he has come to, so -- 10:0

Q. Are you aware of that conclusion? 10:0

A. Which particular article is that you're 10:0

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referring to, then?

MR. HOHN: You don't have a copy of the article with you, do you?

MS. TYLER: I'd like to find out if she is familiar with it.

Q. "Cigarette Advertising and Consumption in the US, 1961 to 1990"?

A. Okay. I don't believe that I've reviewed that in depth, but I'd be happy to look at it.

Q. Have you ever read it?

A. I'm sure I've probably read it, yes.

Q. And are you familiar with the fact that that article concludes that aggregate advertising expenditures and total cigarette consumption are not significantly related?

A. If that is what he has stated in that particular article, then I know I have seen other things where the results or the conclusions have not been as adamant or certain about the effects -- the relationship.

Q. Can you tell me what those articles are?

A. I can't right now, but I know I have seen it.

Q. So you -- it's your position that Gary Wilcox has written an article which retracts that conclusion?

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A. No; that just might not state it quite as adamantly, and it also then is for national. That does not necessarily -- one can -- one would have to make speculation what that relationship would be in the State of Texas.

Q. Are you familiar with his research that has shown that "While aggregate cigarette advertising expenditures have little or not effect on aggregate consumption of cigarettes, that advertising is one source of competition between brands for market share"?

A. Yes. I would assume that he would state that.

Q. Have you ever read his article entitled, "Cigarette Brand Advertising in the United States, 1949 to 1985"?

A. I probably have, yes.

Q. Do you agree with that conclusion?

A. I think that that would be one of the functions that advertising has. Certainly -- certainly one -- in doing that kind of research, one needs to rely on the data that are available. And so one can make certain conclusions based on the kind of data that they have access to.

Q. Is it your contention that Doctor Wilcox did

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not have access to the kind of data necessary to reach these conclusions?

A. I'm not saying that about that particular piece. What I'm saying is that it's very difficult to get the type of data that you need to be able to do the research, because much of that is proprietary data and/or the data is -- it's unclear sometimes whether or not when you have advertising expenses, what is encompassed by advertising expenses. Does that include promotion, for example? What other things are included in there? So the standardization of that across all the sources where you would get those data from, it makes that type of analysis difficult to do because of the nature of the data that you have access to.

Q. Do you think Doctor Wilcox would publish an article in an academic journal without the necessary information to reach and defend his conclusions?

A. I think he would publish the article with access to the best data that he had available to him. I'm not trying to compromise his -- him as an individual or as -- professionally.

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But I'm just stating that certain kinds of data are available in certain kinds of forms, is all? 10:0

Q. I understand that. But if he -- if the best available data was not enough data to reach and defend the conclusions that Doctor Wilcox reached, do you think that Doctor Wilcox would have published an article reaching the conclusions that he reached? 10:0

A. I imagine if we looked at the article, there would be at the end of the article a section on the limitations of -- that the author assumes about -- most research is done with some limitations and those are to be stated in the article as part of it, so that one realizes when -- that they don't over-generalize the conclusions. That for that particular set of data, certain conclusions were reached, but they're within some kind of a framework. 10:0 10:1

Q. Can you think of an article that you have ever written, published in a journal, where you did not include a limitations section at the end of your article? 10:1

A. I can't think of one, per se, although I may 10:1

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have. But that's typically part of the just -- you include an introduction and you include a conclusion and one of the sections that you include is one on limitations, future research, given what you've learned -- usually what we learned isn't the be-all and end-all. There's another study would show, would add to what we know and it may, in fact, not replicate what we found in the first study.

Q. And does the existence of that explanatory paragraph at the end of your articles make you question your results?

A. I think what it -- what its intent is so that individuals do not over-generalize the conclusions, so that they are put -- there are caveats. What you are doing are putting caveats or disclaimers to some degree. For example, that we studied a group of children in Austin, Texas, and they were ages fifteen to nineteen and this is what we found. But you should say in your limitations, then, that these were children in Austin, Texas. This may not apply to every child fifteen to eighteen or whatever across the United States. Not even across the State of Texas, let alone

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across the United States or across the continent or the planet. So it's just a typical part of doing research. 10:11

Q. But Doctor Wilcox did write an article where he based his conclusions on national and aggregate data. Are you saying that he should not have felt comfortable reaching conclusions based on that data? 10:11 10:12 10:12

A. I'm not really saying that, no. Like I say, I'm not trying to disparage Doctor Wilcox's professional reputation or the work that he does. But I'm just trying to say that there are caveats to that. I would imagine you would find that written in the article. 10:12 10:12 10:12 10:12 10:12

Q. Have you done any research to contradict his findings? 10:12 10:12

A. I don't do research in that area. I do not -- 10:12

Q. Have you located any research that contradicts his findings? 10:12 10:12

A. As I said, I have -- in the course of my review, I have seen work that would come to conclusions that are not as adamant as that or as confident as that. 10:12 10:12 10:12 10:12

Q. Can you cite those for me? 10:12

A. I've afraid I can't right now, but I could 10:12

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look it up. 10:12
Q. Do you think Doctor Wilcox does an accurate, thorough job when he conducts research? 10:12
A. I believe that he would do a professional job, yes. He's well trained and has excellent credentials. 10:12
Q. Do you think he does an accurate, thorough job when conducting research? 10:13
A. I believe he does as thorough a job as he can given the data available and that he would be as accurate as he could be, yes. 10:13
Q. Have you ever discussed your involvement in this litigation with Doctor Wilcox? 10:13
A. Not specifically, no. 10:13
Q. Have you spoken about your involvement in this litigation generally with Doctor Wilcox? 10:13
A. I don't believe I have, no. 10:13
Q. So you have never discussed your involvement in this litigation with Doctor Wilcox; is that correct? 10:13
A. We have not discussed it, no. 10:13
Q. Have you ever discussed your involvement in this litigation with Doctor Richards? 10:13
A. No, I have not. 10:13
Q. Are you familiar with Doctor Richards' work 10:13

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regarding cigarette advertising? 10:1
A. I am. 10:1
Q. Have you --
A. I have looked at his work, yes. 10:1
Q. You have reviewed his articles? 10:1
A. I have reviewed some of his articles. 10:1
Q. Does Doctor Richards do an accurate, thorough job when conducting research? 10:1
A. I would again, say that he does -- he's thorough in what he does and accurate, as well. His research is very different from -- well, in some cases his research is different from what Doctor Wilcox does; meaning that he takes a legal perspective. It's not econometric research, although I believe they have co-authored a time or two. So there is common ground between their interests. 10:14
Q. As a matter of fact, you've co-authored with both of these individuals, have you not? 10:14
A. I have, but not on tobacco-related issues. 10:14
Q. You respect Doctor Richards' work? 10:14
A. I do. 10:14
Q. And respect him? 10:14
A. I do. I believe he's -- as a colleague, he's an excellent colleague. 10:14

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Q. And Doctor Isabella Cunningham, have you discussed your involvement in this litigation with her? 10:14

A. No, I have not. 10:14

Q. Have you reviewed any of her work regarding cigarette advertising? 10:14

A. I don't believe that I have. I'm not real familiar with -- I'm not familiar enough with what she does for me to recall specific articles. 10:15

Q. Professor Stout, are you a tenured professor at the University of Texas? 10:15

A. I am. 10:15

Q. When did you achieve tenure? 10:15

A. I believe it was 1990. 10:15

Q. 1990? 10:15

A. Yes. 10:15

Q. Let me show you what has been marked as Stout Exhibit 2 (handing), which is a copy of your CV. 10:15

A. That's correct. 10:15

Q. Would you take a look at that for me? 10:15

A. (Witness peruses document). 10:15

Yes, this appears to be a copy of my CV. 10:16

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Q. Professor Stout, can you review for me just briefly your educational background?

A. Yes. I have a Ph.D. in communications from the University of Illinois at Champaign-Urbana, which I got in 1985. I did master's work at the University of Minnesota in Minneapolis before transferring to Illinois for the Ph.D. program. And I have an undergraduate degree from the University of Arizona in Tucson.

Q. What was your major at the University of Arizona?

A. I had a dual major. I was in English and anthropology. As an undergraduate, I couldn't make up my mind.

Q. Sounds like me.

And what is your master's in at the University of Minnesota?

A. I don't have an awarded master's degree. I did work towards a master's and then transferred to Illinois for the doctorate. But I was in the School of Journalism and Mass Communications there, so that is what I was working towards before transferring.

Q. Why did you decide not to achieve the master's

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before you went on to your Ph.D. program? 10:1
A. I was -- I applied to Illinois, and was 10:1
encouraged to do the Ph.D. and the master's 10:1
work would apply to that. There was a lot 10:1
more emphasis in advertising at Illinois, less 10:1
of a journalism emphasis, and I was more 10:1
interested in advertising and so I 10:1
transferred. 10:1
Q. Now, your CV which has been marked as Stout 10:1
Exhibit 2 does not have a date on it. Can you 10:1
tell me when you prepared that CV? 10:1
A. Yes. I'm looking at this. I think there is a 10:1
more recent copy that I've done this summer, 10:1
but this is probably January of this year, so 10:1
there are some changes in the work in 10:1
progress. Some of those have been presented 10:1
now or accepted for publication, or published 10:1
in proceedings. 10:1
Q. You provided a more recent copy of your CV to 10:1
plaintiff's counsel in this case? 10:1
A. I believe I have, yes. 10:1
Q. Where would the -- 10:1
A. The only differences -- 10:1
Q. -- revisions be? 10:1
A. The differences would be the things that are 10:1

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under -- like I say, it's -- it's not major. Things that are under works in progress, for example, have already been accepted. For example, on the last page, Page 9 of the typed vitae, the third article on -- with Steve Edwards and Karen King that was under review for the conference at Consumer Research has been accepted, so --

Q. Any other works in progress that you have listed here on Stout Exhibit 2 which have been accepted for publication?

A. I don't believe so. I think things are still in the works. I'm working on another -- I've got that one down here, the grant proposals. So I'm involved in another couple of proposals that are being written on grants. And I think that's about the extent of that. I've done a couple more presentations -- social marketing conference in May. I just got back from an Association for Education in Journalism in August, so ...

Q. Are any of the items which are not reflected on this CV related to cigarettes and cigarette advertising?

A. No, they are not.

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Q. Does this CV accurately reflect, with the exception of the article on the last page, all of your publications? 10:1 10:1 10:2

A. I believe it does, yes. 10:2

Q. Does Stout Exhibit 2 accurately reflect your association memberships? 10:2 10:2

A. I believe -- I believe it does, yes. 10:2

Q. And does it accurately reflect your work as the reviewer of the work of others? 10:2 10:2

A. I believe so. There may have been another conference in here. I've been doing reviews for social marketing, but this is pretty much the range of the journals that have requested me -- that have submitted articles to me for review over time. 10:2 10:2 10:2 10:2 10:2 10:2 10:2

Q. Now, it's my understanding, Professor Stout, that you had an ad hoc reviewer for various publications. 10:2 10:2 10:2

A. Right. 10:2

Q. Can you tell me what it means to be an ad hoc reviewer? 10:2 10:2

A. Well, publications have editorial boards where they invite individuals to be on a review board and to help with, basically, with reviews and maybe to some degree policy with 10:2 10:2 10:2 10:2

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the journal. And then, in addition to those individuals, the articles are submitted ad hoc to reviewers who have expertise in some way with the content of the article. So typically articles are reviewed by three individuals and those individuals -- I have not been -- well, I've been an editor of proceedings. I can't speak for how all journals editors do it, but my assumption would be that a logical way to do it would be to look at the article and then to select three different people that have some competence in various areas that -- of the publication to review that.

Q. Your vitae reflects that you do not currently serve on an editorial review board; is that correct?

A. That's true, I do not.

Q. You are the past president of the Journal of Advertising; is that correct?

A. It's past president of the American Academy of Advertising, which publishes the Journal of Advertising.

Q. But you do not currently serve on its editorial board; is that correct?

A. Not on the board -- I am on the publications

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committee now. I was just appointed in January to that.

Q. But you do not currently serve on --

A. I'm not on the editorial board of the Journal of Advertising, no.

Q. Have you ever been asked to serve on an editorial review board?

A. I have not been asked to, no.

Q. With the exception of the grant proposals and the article on the last page of your CV at Page 9, which I understand has now been published, is Exhibit 2 an accurate and complete representation of your professional career?

A. Let me just correct one point that you said, the representation on the final page has been accepted for presentation at the Association for Consumer Research, so one can elect to have them published in the proceedings or not and we probably will not.

Q. I appreciate that clarification.

A. And I believe otherwise, like I say, this is a fair assessment of my work.

MR. HOHN: This might be a good time for a break.

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MS. TYLER: Fine. 10:23
(Whereupon, a brief recess was taken). 10:23
THE VIDEOGRAPHER: We're back on at 10:39. 10:38
BY MS. TYLER: 10:38
Q. Professor Stout, we're back on the record after a short break. Are you ready to proceed? 10:38
A. I am. 10:38
Q. Doctor Stout -- Professor Stout, I apologize, is there one you prefer? 10:38
A. Doesn't matter. 10:38
Q. Professor Stout, whose opinions would you trust more, someone who's published in a peer review journal or someone who has not published in a peer review journal? 10:39
A. It would depend on what the opinions were about, and so some people have expertise in an area and would have opinions and may not be in a field where they're publishing in journals. 10:39
Q. Let's say you were writing an article about advertising and you had a choice of relying on two different pieces of research, both of which you thought were well done. One was 10:39

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approved by a peer review journal and the other was not. Would you tend to rely on the peer review journal more?

A. Well, the peer revenue journal would obviously be part of it, but I think people have their reputation and expertise in areas that encompass more than just published articles. And so their education, their background, obviously their personal reputation for doing research; a number of different things would have an impact on that. So I wouldn't rely just totally on peer reviewed journal articles. I mean, there are other things that are encompassed.

Q. I guess my question was, between those two articles, which would you rely on more?

A. One in a peer review journal and one that was not in a peer review journal?

Q. Correct.

A. It would, again, I would still -- I would still want to have an idea about who had done the work and the like. So obviously things can get published in peer review journals that have been -- studies that have been supported by -- have been paid-for studies. And so I

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would be suspect then perhaps of the outcome of those studies, even though they're in a peer reviewed journal because of the nature of how the studies were undertaken. 10:4

Q. Do you think that being published in a peer revenue journal carries any weight whatsoever? 10:4

A. I believe it does. It certainly is important for promotion and tenure in the academic field. 10:4

Q. Why is that? 10:4

A. Well, we're evaluated on our teaching, our research, and our service, and so publishing is one of those components of research. 10:4

Q. Indeed, publishing in peer review journals is one of the elements of that research, isn't it? 10:4

A. It depends on which area of the academy that you're looking at, but some publications are -- some publications are done that are not in peer review journals. I could be -- well, I can't think of an example right off, but things that might not be academic journals, for example, where one may publish quite a bit, and certainly -- certainly if one is in fine arts or in English, they would be getting 10:4

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stories published and the like. And it's different from a peer revenue journal. 10:4

Q. I'm talking about your field, Doctor Stout. You don't work in English and -- 10:4

A. That's true. 10:4

Q. I'm trying to restrict my questions and it won't take so long, if we restrict it to your field of expertise. 10:4

A. Okay. 10:4

Q. Professor Stout, in your field, are there journals which are especially prestigious and reputable? 10:4

A. Typically, I think there is. Certainly -- it's not a formal kind of ranking process, but there is a sense that some -- that some journals are first-tier and some journals are second or third-tier journals. 10:4

Q. What journals in your field are considered first-tier? 10:4

A. In the field of advertising? 10:4

Q. Is that what you consider to be your field? 10:4

A. I do. 10:4

Q. Then that would be the field. 10:4

A. The Journal of Advertising would be a first-tier journal. The Journal of 10:4

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Advertising Research. There might be other articles -- I mean, other journals that would be included in that, too.

Q. Are those the only two that you can think of?

A. Well, that's why I asked you a question about for qualification on your question about the field because depending on how one -- what one's approach to the research is, that would have some impact on where one would publish. So I could be in advertising and have an approach that is very media oriented and I may be striving then for articles in journals that are more media related, or if I take more of a psychological perspective, or a consumer behavior perspective, I might select other journals that would then be first tier journals for where an individual would do their publication.

Let me take, for example, Jef Richards' work. His work would be very appropriate for a journal of public policy and marketing, because of the nature of the work. Some of the work that I do because of the perspective that I take would not be as appropriate for that journal, and so different

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people I think might give somewhat different rankings, but there would be some consensus in the field.

Q. Is the Journal of Consumer Research one of these prestigious journals, one of these first-tier journals?

A. I would say across a field that includes advertising, consumer behavior, and marketing, that yes, it would be a first-tier journal.

Q. Has that journal ever published your work?

A. I have not published in the Journal of Consumer Research, no.

Q. Is the Journal of Marketing Research one of these prestigious journals?

A. It would be across the fields of advertising, marketing, and consumer behavior, yes.

Q. Has this journal ever published your work?

A. I have not purchase published in the Journal of Marketing Research, no,

Q. Is the Journal of Marketing one of these prestigious journals?

A. It would be included as a first-tier journal, I believe, by most individuals in the fields we have previously mentioned.

Q. Has this journal ever published your work?

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A. I have not published in that journal, no. 10:4
Q. Whose opinions would you trust more, someone who has published in peer review journals or someone who has written in conference proceedings? 10:4
A. Well, it would depend again on what the content area was and what the opinion was about. So peer review journals -- there is a difference between peer review journals and first-tier peer review journals. The peer review process is not the same across all journals, the standards are not the same across all journals. 10:4
Q. If you were considering a candidate for employment in your department at the University of Texas, and that individual had only written in connection with conference proceedings, and a similar candidate had published in peer reviewed journals, which candidate would you prefer to hire? 10:4
A. It would be -- depend on a number of circumstances, what the area of the field was, what -- which conference proceedings we were talking about, and which peer reviewed journals we were talking about. As I just 10:4

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said, not all peer reviewed journals are first-tier journals, so it would depend and -- it would depend.

Q. Is it your testimony that that fact alone would make no difference?

A. Which fact?

Q. That someone -- that one candidate had written in connection with conference proceedings and the other had published in peer reviewed journals?

A. Like I said, it would depend on what the area was and what the journals were, so there would -- the situation would have some impact on that.

Q. If the candidate had written in Tier 1 peer reviewed journals and the other candidate had written in connection with conference proceedings, would that difference make a difference to you?

A. Clearly that would be something that I would take into account if I were evaluating two candidates, yes.

Q. And in what sense would you take it into account?

A. Well, I would look at in conjunction with the

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maturity of the candidate, again, where the article, itself, and what the content area is, where the research is on some sort of development, obviously sometimes typically what happens with many things is that the individual is publishing -- you're presenting work at a conference that may not necessarily be the be all/end all. It's part of a research stream and so it's done as -- sometimes in preparation for submission to a journal.

Q. So I'm unclear. Would that difference make a difference in terms of hiring these individuals, or would it not?

A. I think that it would. It certainly could.

Q. Whose opinions do you trust more, Professor Stout, someone who has consulted extensively in litigation or someone who has not?

A. Their opinions about what?

Q. Advertising, marketing.

A. So would I trust their opinions about advertising or marketing if they had participated in litigation quite a bit versus they had not?

Q. Correct.

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A. It would depend on the situation, I think. 10:4
Q. Well, can you identify a situation where it would impact your decision and your trust in their opinions? 10:4
A. Not offhand, no. 10:4
Q. Well, if an individual had consulted in litigation regarding cigarette advertising twenty times, would that impact your opinion of the trustworthiness of their work in any way? 10:4
A. Not necessarily. It would -- I would assume that they're testifying because there is some connection with the work that they do and their expertise and education and background relative to the area that they're being asked to testify about. 10:4
Q. And that would be your assumption. You wouldn't know that? 10:4
A. I certainly can't know for everyone that has testified. If I were given an individual and had their vitae and their history of work in testimony, I could make a more -- a statement that was less qualified, obviously. I think we're talking hypothetically now. I don't -- do you have an individual in mind or -- 10:4

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Q. Well, how about Richard Pollay? 10:4
A. Okay. What about --
Q. Have you ever seen his vitae? 10:4
A. I don't recall that I've seen his vitae, no. 10:4
Q. Do you know anything about his professional background? 10:4
A. I know some because he's a member of the American Academy of Advertising, and I've seen him presents at conferences and the like. 10:4
Q. Have you ever met him personally? 10:4
A. I have. 10:4
Q. Have you ever discussed this litigation with him? 10:4
A. I have not specifically discussed this litigation. 10:4
Q. Have you generally discussed this litigation with Professor Pollay? 10:4
A. I have discussed the fact that I'm participating in this case with Doctor Pollay. 10:4
Q. And did Doctor Pollay inform you that he is participating in this case? 10:4
A. I'm aware that he is because of a meeting that he attended that I also attended with counsel. 10:4
Q. And what meeting was that? 10:4
A. That was the meeting where Hugh McNeely and 10:4

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Rhett Klok and Andrea Parker were present.
Q. When did this meeting take place?
A. I believe this was in June, I believe.
Q. Was this your second meeting?
A. My second meeting with whom?
Q. Hugh McNeely.
A. This was probably -- probably a third meeting that Hugh was present at.
Q. In the chronology, how many meetings had you had before this meeting with plaintiff's counsel and people associated with the State of Texas regarding this case?
A. Probably -- probably two.
Q. So this was your third meeting?
A. Two or three.
I think, yes.
Q. And you met with Professor Pollay. Who else was in attendance?
A. As I said, Rhett Klok, Andrea Parker, Hugh McNeely, myself, and Richard Pollay. I believe there was also a gentleman from the UT law school, and I don't recall his name right now.
Q. Any other expert witnesses that you're aware of?

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A. Not to my knowledge.
Q. In what sense are you familiar with the work of Professor Pollay regarding cigarette advertising, or are you familiar with the work of Professor Pollay?
A. I am familiar with his work. I have reviewed and used his work. I used his work not necessarily with tobacco advertising, per se, but I use his work in teaching my graduate seminars, so it's on the reading list for the students often.
Q. Had you reviewed and used his work prior to becoming involved in this litigation?
A. I have reviewed and used his work for quite some time in my teaching, yes.
Q. So prior to this litigation?
A. Yes, for years; since I started teaching graduate classes, which would be in the late eighties, probably.
Q. What work have you used?
A. He has a number of pieces on the social effects of advertising and there's a particularly interesting debate in the literature about the effects of advertising, the article that he has written and a counter

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article by Morris Holbrook at Columbia. So I use that to set up a debate about the pros and cons of advertising in the class. He's also done content analysis work.

Q. Had you read any of his articles related to cigarette advertising prior to your involvement in this litigation?

A. I probably had, yes.

Q. You probably had. You don't know?

A. I would imagine that I had because I read the Journal of Consumer Research and I read the Journal of Marketing, and so I would have read those articles, as well, to keep abreast with my field.

Q. But you don't recall?

A. Well, I don't recall specifically that I'd read it to -- for any particular purpose that was connected with this case. I mean, I wouldn't have known about the case.

Q. My question was simply, had you read it prior to your involvement in this case?

A. I have read articles of his work, yes.

Q. You produced a number of materials authored by Professor Pollay. Where did you obtain those materials?

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A. Some of those I had in my files and some of those, the more recent ones, I had collected from the library and from the journal; I do subscribe to the Journal of Consumer Research. I don't subscribe to the Journal of Marketing. 10:53
Q. Which articles did you have in your files? 10:53
A. It would be -- if -- it would be hard for me to tell. If you had a list, I could make a guess, but I have three four-drawer file cabinets at home and that doesn't count my office. 10:53
Q. Can you give me a number? 10:53
A. Of how many of his articles I might have in my files? 10:53
Q. That you had in your files that were produced? 10:54
A. It would be a guesstimate. That were produced? What -- 10:54
Q. Counsel has produced the things that you intend to rely on and many of those things were articles by Professor Pollay. 10:54
A. Right.
Q. I'm trying to ascertain how many of those you had in your files and how many you had collected? 10:54
A. Okay. Probably any of his older work I would 10:54

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have had in my files and his more recent work in the last year or so would have been more likely that that would have been collected, if I don't have the journal at home. 10:54

Q. Did you have any articles by Professor Pollay regarding cigarette advertising in your files? 10:54

A. I would have because he has published on that for quite some time. 10:54

Q. And you systematically collected those prior to your involvement in this litigation? 10:54

A. Yes, I would have. I would have collected work by him. 10:54

Q. Do you have a file called Professor Pollay? 10:54

A. I don't file my work that way. I file it by content, so I would have had a file on advertising and -- it could have been social effects, it may be health-related issues, et cetera, so ... 10:55

Q. You also mentioned that you had some of Professor Pollay's articles collected. Who collected those for you? 10:55

A. I had -- either I collected them by asking -- as I said, I have some students who have worked on tobacco and advertising-related papers for courses that I teach, and so I had 10:55

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queried if they would allow me to copy their materials that they had collected for doing their papers. And then I also have a student that I had hired who had done some library work and some work on the Internet for me. 10:5

Q. And who is that student? 10:5

A. His name is Steve Edwards. 10:5

Q. Whose opinion would you give more weight; someone who cites him or herself in an article or someone who cites the work of others? 10:5

A. Again, it would depend. Sometimes -- sometimes you may be one of very few people or the only person who is doing work in a specific area, so it's hard to cite very broadly. It would depend on what the issue was, who the person was. If they cited themselves and never cited anyone else, I might be more suspicious, but if they were the only one who had done work in that area, they would have no one else to cite and I would want to seek cites that previous research had been done, even if it had been done by the self same author. 10:5

Q. How many people do you think have done research on cigarette advertising, Professor 10:5

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Stout? 10:56
A. I really -- I really don't know. 10:56
Q. Could you give me a guess? 10:56
A. Well, if I just used an example of my own department, there is clearly a number, if we take UT as one example. 10:56
Q. Well, you've collected a lot of materials in preparation for your testimony in this case -- 10:56
A. That's correct. 10:56
Q. -- by many professors and academics. Are you telling me that you can't give me any -- you don't have any idea how many people have worked on the issue of cigarette advertising? 10:56
A. It would be hard to come up with an exact number, because some people might be experts in that they do that type of work almost exclusively, and others may have on occasion done a paper that looks at tobacco-related issues in advertising. 10:57
Q. I'm not asking for an exact number. I'm asking how many people you think have worked on the issue of cigarette advertising? 10:57
A. I would say that a good number of people have over time. 10:57
Q. One hundred? 10:57

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A. You're asking for a number now?
Q. Not a precise number. Just a ballpark.
A. I would feel uncomfortable giving a number, but I would say that a good number of people have at some point in their career done work that has involved tobacco and advertising.
Q. More than one; correct?
A. Definitely more than one.
Q. Professor Stout, do you consider cigarette advertising to be unique from advertising for other consumer products?
A. What do you mean unique?
Q. Do you know what the word unique means?
A. I do.
Q. I would be using it -- what do you think the word unique means?
A. Well, I'm curious how you would think it would be unique.
Q. That's my question. Do you think cigarette advertising is unique from advertising for other products?
A. Well, it's unique from some products in that there are regulations now as to where cigarette advertising can be placed.
Q. All right. That's one sense in which it is

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unique, in that cigarette advertising is regulated and limited. Can you think of any other way in which cigarette advertising is unique? 10:5
A. Well, as part of that regulation, warning labels are required to be on the -- to be included in the advertising. 10:5
Q. So it's limited, it's regulated, and it carries warning labels. Can you think of any other way in which cigarette advertising is unique from advertising for other consumer products? 10:5
A. Not at this time, no. 10:5
Q. Is the content of cigarette advertising unique from advertising for other consumer products? 10:5
A. It would depend on the consumer product. Certainly advertising for cigarettes and tobacco products has a different -- uses different types of appeals, but those may be as well for other consumer goods. Obviously, it would depend -- it would depend on the situation. 10:5
Q. What types of appeals are you referring to? 10:5
A. Well, some advertising for some products, for example, might feature more information or 10:5

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less information, and so the informative content -- whether it's factual content of the ad. And that would be based on the product category, it's -- the position, how new the product is, for example. And so there are -- it would depend on what the product category was, whether -- how the advertising would appear. 10:59 10:59 10:59 10:59 11:00 11:00 11:00 11:00

Q. Can you name the types of images that appear in cigarette advertisements, just a few? 11:00 11:00

A. Name images? 11:00

Q. Yes. 11:00

A. In print advertising or -- 11:00

Q. Yes. Where else does -- are cigarettes advertised? 11:00 11:00

A. Cigarettes are advertised in sports arenas, at events, in convenience stores, in point of purchase. I believe there is direct marketing. So there are a number of different venues. 11:00 11:00 11:00 11:00 11:01

Q. Let's take print advertising first. Can you name an image that appears in cigarette advertising? 11:01 11:01 11:01

A. An image? 11:01

Q. Yes. 11:01

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A. I could comment probably generally about different types of -- the category of images that appear in cigarette advertising. Are you speaking about current advertising? Do you want to give me the brand --

Q. Yes. Why don't we start with current advertising.

A. Okay.

Q. Could you name an image that appears in cigarette advertising today?

A. Okay. Well, until very recently Joe Camel has been appearing in Camel advertising, so that's an image.

Q. Is Joe Camel, in your opinion, a cartoon character?

A. He could be conceived of as a cartoon character.

Q. Do you think that cigarette advertising is the only form of advertising which utilizes cartoon characters?

A. I don't believe it is.

Q. Can you name another image?

A. In cigarette advertising?

Q. Correct.

A. Are we going to go through every ad that --

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Q. Not necessarily. 11:02
A. Okay.
Q. I'd just like to explore the area. 11:02
A. Images, we can take groups of people. 11:02
Newport, usually, groups of individuals in some sport-related event. Numerous people, more than one. 11:02
Q. Professor Stout, are cigarette advertisements the only place where you would see groups of people engaged in sport-related activity? 11:02
A. No, they're not. 11:02
Q. Why don't we -- can you name another image? 11:02
A. Another image? 11:02
Q. Or category of images. 11:02
A. Well, I could name a number, if you -- you know, do you want to give me brands with particular ads or we could look at specific ads and I could give you my opinion of what the images are in those ads. We could -- 11:02
Q. Let me go back to my original question as to whether you not you think cigarette advertising is unique from advertising for other consumer products. 11:03
You mentioned it's limited. You mentioned that it's regulated. You mentioned 11:03

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that it carries a warning.

Are there other ways -- are there any other ways you can think of that cigarette advertisements are unique from advertising for other consumer products?

A. At this point, no.

Q. So apart from cigarette advertisements being limited, regulated, and carrying a warning, they are not unique from other consumer products -- from advertising for other consumer products; is that correct?

A. Well, one could consider that the placement, sometimes they're not precisely targeted, so that they are the -- the message is available in locations where individuals who are outside the target would be more likely to see them.

Q. I'm talking about advertisements, specifically?

A. Right.

Q. I'm not talking about targeting, as you call it. I'm talking about the advertisement, itself.

A. Okay. Well, I guess I would still say the -- if we're talking about print advertising, that the placement could be such that it would be

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available for individuals to see that are outside of that target, so ... 11:04

Q. And would that make cigarette advertisements unique from advertisements for other products, the fact that they're seen by other people? 11:04

A. It could be given the sense of the limitations and the regulation that the advertising already faces, the other items that make it unique. 11:04

Q. So we've already covered that. Is that what you're saying? 11:04

A. I think so. 11:04

Q. Professor Stout, what do you consider to be your professional specialty? 11:0

A. My professional specialty? 11:0

Q. Yes. 11:0

A. Message research, probably. I look at responses to messages. My dissertation and a lot of my research has been in emotional response to advertising. And I also look at health-related messages. 11:0

Q. Let's take emotional -- the work that you've conducted on emotional response in advertising. Are you continuing with this research today? 11:0

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A. I am working -- I am still working in the area. I don't think I'm working on a particular paper right now. 11:05
Q. Who else is researching in this area? 11:05
A. There are numerous individuals, I believe. 11:05
Q. Can you name them? 11:05
A. I could name some. Some individuals -- academics who have done work on emotional response to advertising would include -- 11:05
Q. Let me just clarify for one second. I'm asking about people who are researching in this area right now. Not people who have researched in this area in the past; but at this moment. 11:06
A. Well, then I wouldn't be able to answer that because I don't know what work everyone is doing right now. People tend to have projects -- projects in place, you have ongoing projects. I'm working on things that sometimes I don't get to for months at a time. I'm still working on them, but I didn't work on it today. So it would be impossible for me to know what each individual is working on. 11:06
Q. I'm not asking for anything that specific. Are you aware that anyone else is currently 11:06

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researching in the area of emotional response in advertising? 11:0

A. There are individuals that might be publishing now or you might find on conference programs, for example, that would be presenting on emotion, meaning, I would assume, that they are actively working in the area. If that's still within the rubric of the time frame you're talking about; rather than I'm not going to talk about historically everybody who has ever published, but -- 11:0

Q. And who are those people? 11:0

A. Individuals like Esther Thorson, for example, who is at the University of Missouri. Jon Morris who is at the University of Florida, I believe. That's J-o-n. 11:0

Q. Anyone else? 11:0

A. Rajeev Batra who's at University of Michigan. And there would be others, but ... 11:0

Q. But you can't think of them right now? 11:0

A. Not right off the top of my head, no. 11:0

Q. Professor Stout, do you think there is a theoretical consensus among researchers today regarding the role and nature of emotion in advertising? 11:0

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A. I think there is -- it's a topic that's not -- debated is too strong of a word, but I think there -- as with most issues, there is -- there is some consensus, but not total agreement. 11:07 11:07 11:08 11:08 11:08

Q. So your position is that there is a theoretical consensus among researchers today on the role and nature of emotion in advertising? 11:08 11:08 11:08 11:08

A. I would say there is not just one theory that people would subscribe to about how emotion works in advertising. 11:09 11:09 11:09

Q. So there is -- 11:09

A. Which I think is a negative response to your question. 11:09 11:09

Q. So you do not think there is a consensus? 11:09

A. I think that there are different points of view. 11:09 11:09

Q. Do you think there is a lack of understanding of how emotion works in advertising? 11:09 11:09

A. I think there is -- I think there is a lack of certainty as to exactly how it works each time every time. 11:09 11:09 11:09

Q. Do you think that people basically know how emotion works in advertising? 11:09 11:09

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A. There are theories about how it works, yes; to explain.
Q. There are theories. Do you think that any one theory has prevailed regarding how emotion works in advertising?
A. Well, I don't know what you mean by prevailed, but there are different points of view about how it works and there is -- I guess, some consensus about that, if you look at the publications in the literature, then, as to how people are citing -- where -- how they are basing their own work.
Q. So is it your testimony that there is a consensus regarding how emotion works in advertising?
A. I would say there is a consensus that within a limited -- to be able to limit how many different ways -- or explanations for it.
Q. I'm sorry. You lost me?
A. Right. So I realize I'm going back to your earlier question, but there is a consensus that people would agree they could limit the number of possible explanations for how it works without anyone necessarily knowing exactly how it works, I think.

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Q. So, in essence, we've narrowed the field? 11:10
A. Exactly. 11:1
Q. But there is no consensus on the way that emotion works in advertising? 11:1
A. I would say that that is probably true, right. 11:1
Q. I understand that you have an article in progress entitled, "Assessing the Future of Emotion in Consumer Research" for submission to the Journal of Consumer Research. 11:1
A. Right.
Q. What is the future of this area? 11:1
A. Well, it depends on what you mean. 11:1
Q. Well, what's your article about? 11:1
A. Well, the article attempts to look at the ways that emotional research has been done. We take what we know from psychology, for the most part, relative to emotion and it's been applied to the fields of advertising and marketing. So obviously, work in emotion for clinical psychology is not necessarily particularly relevant for advertising. So the task has been over time to take the theory that exists in other fields and see how that can be applied to advertising. 11:1
Q. Have you already submitted that article to the 11:1

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Journal of Consumer Research? 11:1
A. No, I have not. 11:1
Q. Have you submitted it anywhere else? 11:1
A. No. It is not complete yet. 11:1
Q. Your CV reflects you have not authored or co-authored any books; is that correct? 11:1
A. That is correct. 11:1
Q. Have you ever done any research concerning billboard advertising? 11:1
A. I've not done any primary research concerning billboard advertising. 11:1
Q. In other words, you've done secondary research on billboard advertising? 11:1
A. Well, I have reviewed pieces about billboard advertising. 11:1
Q. So you have reviewed the work of others concerning billboard advertising? 11:1
A. Right. 11:1
Q. But you have done no research yourself concerning billboard advertising? 11:1
A. I believe that's correct, yes. 11:1
Q. Are you not sure? 11:1
A. Well, I'm just trying to think. As I said, over -- over, you know, over twelve, thirteen, fourteen years, one does a lot of things and 11:1

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what constitutes work, whether it's a published -- if I have a published paper on it, it would be in my vitae, but that doesn't mean that I haven't in a course project or in some other manner, had some more direct work in that area which is why I saying I'm scanning my brain right now to see if I can think of any particular instance, which is why I qualified that.

Q. And you haven't written in a conference proceeding regarding billboard advertising, have you?

A. I don't believe I have, no.

Q. Have you done any original research concerning point-of-purchase advertising?

A. Original research, primary research, you mean?

Q. Correct.

A. I don't believe I have, no.

Q. Have you ever worked for an advertising agency?

A. I have worked for an advertising agency, yes.

Q. What advertising agency?

A. It's on my vitae. Judge Advertising and Public Relations in Montana.

Q. Can you point me to that entry on your CV?

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A. It's on the first page under professional experience, 1979. So I was employed there then, and then I've also worked with advertising agencies in consulting.

Q. Was that full-time or part-time employment with Judge Advertising?

A. That was full-time.

Q. Have you ever been paid by a client to design an advertising campaign for a product or a service?

A. I have, yes.

Q. Would that be in connection with your work at Judge Advertising?

A. At Judge Advertising, as well as work that I've been doing on grant projects. We've been preparing marketing plans, for example.

Q. Is that -- are those marketing plans for consumer products and services or for public service announcement type of --

A. They would be most likely to be for social issues, right. For public health-related issues.

Q. At Judge Advertising, were you paid by a client to design an advertising campaign for a product or service?

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A. We -- that was what we did there, yes.
Q. What products or services have you designed an ad campaign for?
A. As I recall, some of the clients we had there were in the financial institutions -- financial services, automobiles, banks -- well, that's financial, and I can't recall all the clients.
Q. So is it your testimony that you have been paid to design advertising campaigns for financial services and for cars?
A. Automobile dealerships.
Q. Automobile dealerships?
A. Right; and other clients that I cannot recall at this time.
Q. Have you ever designed an advertising campaign for a consumer product?
A. I can't say that I have, but I can't say that I haven't. I can't think of a specific at this moment. We had numerous clients at the agency, so ...
Q. But none come to mind; is that correct?
A. But none come to mind.
Q. Which of your empirical data-based articles have involved the study of consumer responses

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or perceptions to commercial print advertising? 11:1

A. To commercial print advertising? 11:1

Q. Uh-huh. 11:1

A. May I look at my vitae? 11:1

Q. Certainly. 11:1

A. (Witness peruses document). 11:1

I have done content analysis work on print and most of the work -- much of the work on fear appeals or threat appeals has involved either magazine advertising or print advertisements, as well as video. 11:1

Q. Okay. Those fear appeal advertisements -- the work you have done regarding fear appeals, again, involves public service announcements; is that correct? 11:1

A. It does tend to be, yes, for issues that would be public service related, as I recall, 11:1

Q. The work you did concerning fear appeals has nothing to do with consumer products, advertising for consumer products; is that correct? 11:1

A. I think not. I think most of that was on public service-related issues. 11:1

Some of what we did in the Stout, 11:1

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Homer and Liu article, as I recall, and that has been a while, was for brands of coffee. That's what we used in that one. 11:1

Q. What is the title of that article? 11:1

A. "Does What We See Influence How We Feel?" Felt demotions versus depicted emotions in TV commercials. It also seems to me another article I published with Lou -- 11:1

Q. I want to stop you for one second, Professor Stout. I asked you specifically about commercial print advertising -- 11:1

A. Oh, I'm sorry.

Q. -- not television advertising. 11:1

A. I'm sorry. I'm sorry. No, those were television ads. 11:1

Q. So can you point me to your empirical databased articles which have involved the study of consumer responses and perceptions of commercial print advertising? 11:1

A. It appears that my work on advertorials, which is obviously is print advertising, but it depends on what constitutes a consumer product, then. 11:1

Q. Well, your work -- how does an advertorial differ from a commercial print ad? Do you see 11:1

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any distinction? 11:1
A. Well, that's part of the issue of the 11:1
research. But the intent, I think, by 11:1
definition is that it's supposed to differ 11:1
from an ad, but, that, in fact, it is an ad, 11:1
so ... 11:1
Q. Can you define an advertorial for me? 11:1
A. Advertorials are, typically, they contain 11:1
editorial content, as well. They contain 11:1
editorial content, as well as images about 11:1
particular brands, and they try to associate 11:1
the brand with the editorial content. And you 11:1
typically find these quite often in women's 11:1
magazines, for example, so you have a little 11:1
bit of editorial content about being safe in 11:1
the sun, or keeping your skin soft, and then 11:1
there will be Lubriderm or Coppertone will 11:1
also be featured in that. So it's a mixture 11:1
of editorial content and advertising and I 11:1
think that's part of the issue as to how 11:1
consumers view those; whether they're ads or 11:1
whether it's a less biased message because, in 11:1
fact, it's surrounded by editorial content and 11:1
it's not specifically presented and paid for 11:1
by the advertising brand. 11:1

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Q. But the fact that there is a separate word which defines that category of advertisement reflects that it can be distinguished from commercial print advertising; is that correct?

A. I think some people might distinguish it from that, yes.

Q. Do you not distinguish advertorials from commercial print advertising in any way?

A. Well, I would say part of the issue in doing the research that I did was relative to the -- that being used as a strategy -- using the editorial content. It's paid-for space, so by definition, it's an ad because it's paid-for space, but the nature of the way the message is presented is, can probably be distinguished.

Q. Do advertorials look precisely like commercial print advertising?

A. Commercial print advertising looks different ways. I think sometimes commercial print advertising is designed specifically to look like it's got editorial content in it. So I think -- I think that it could, yes.

Q. So is it your position that advertorials can not be distinguished from commercial print

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advertising? 11:2
A. It's my position that it would not always be 11:2
clear-cut in distinguishing those. 11:2
Q. Are there any other articles that you can 11:2
think of that you have conducted that involve 11:2
the study of consumer perceptions and 11:2
responses to commercial print advertising to 11:2
the extent that that article involves 11:2
commercial print advertising? 11:2
A. In looking at this quickly now, I don't see 11:2
articles on here that look specifically at 11:2
commercial product advertising or consumer 11:2
goods. 11:2
Q. Now, much of your research has indeed focused 11:2
on consumer responses to and perceptions of 11:2
television advertising; is that correct? 11:2
A. That's correct. 11:2
Q. Why did you choose to study television 11:2
advertising? 11:2
A. I chose to study television advertising for a 11:2
couple of reasons. Given that I'm 11:2
particularly interested in emotion, it is 11:2
often times easier to be able to -- you have 11:2
more time and more executional variables at 11:2
your behest or your command to actually create 11:2

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messages that are likely to elicit emotional responses in individuals.

Q. Than what?

A. Than if you had some other form of advertising.

Q. Like print advertising?

A. Like print advertising, although there is certainly emotional appeals in print advertising, as well, and print advertising does elicit emotional responses from individuals, too.

Q. But do you think creators of print advertisements are limited in their ability to incorporate emotion in their ads as distinguished from creators of television advertisements?

A. Not necessarily. Not necessarily, no. There is some very compelling print advertising that is available that is an emotional appeal and also can elicit emotional response from individuals.

Q. With all due respect, Professor Stout, that wasn't my question. Comparing the two categories of advertisements, television advertisements and print advertisements, do

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you think that print advertisement are more limited in their ability to incorporate emotion in their ads than creators of television advertisements? 11:2

A. I would say it would be more of a challenge for the creator of a print ad, but I would say that print advertising can be very emotional in its appeal and in its impact. 11:2

Q. Is it your testimony that television advertisements are able to incorporate more emotion in their ads or are more able to incorporate emotion in their ads than print advertisements? 11:2

A. Emotional response -- there -- part of the area is that ads are created that have -- that are intended and might be identified as emotional appeals, but individuals have reactions to those ads. They have responses. And it is -- one creates an ad with the assumption that they think people will respond in a certain way. There are tools available in print and in broadcast that would allow the creator of the ad to be able to attempt to make the ad an emotional appeal. One assumes that there is some correlation between if it's 11:2

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an emotional appeal, viewers will have an emotional response.

Q. Do you think that creators of print advertisements have the same tools at their disposal to create emotion in an ad as do television advertisements?

A. It's more of a print creative person because of the nature of the medium to be able to create an emotional appeal or an ad that would elicit an emotional response.

Q. Print advertisements have no music; correct?

A. That's correct. They do not.

Q. They do not have moving images, correct?

A. That's true. They do not.

Q. Print advertisements do not have changing color?

A. That's true. They do not.

Q. Do you know when cigarette advertisements stopped airing on television?

A. My understanding was in 1970 -- the end of 1970, beginning.

Q. Do you know?

A. I believe it was January, 1970.

Q. That's your understanding; it was January, 1970?

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A. Yes.
Q. Professor Stout, have you ever conducted research on the impact of advertising on women specifically?
A. I look at the difference. We just -- I've worked with students on a couple of theses over the last year, where we have been looking at the impact of emotional response on women versus men.
Q. And what have you found?
A. We did find that there did not seem for this one particular study -- which was on television advertising for drinking and driving, different drinking and driving messages, for those particular messages, we did -- as I recall, and I would have to have the thesis in front of me to actually look at all of the results, but as I recall, we did not really find a big difference in the emotional responses between males and females in that particular study.
Q. You did not find a big difference or you did not find a difference?
A. I would have to have the thesis in front of me. There were numerous -- I think there were

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seven or ten hypotheses, and I would really have to --

Q. Well, why don't you summaries your findings with respect to the impact of emotion on women or the impact of these advertisements on women?

A. I'm sorry? I don't understand the question.

Q. Could you summarize for me, again, your research finding concerning the impact of advertising on women?

A. For this particular thesis?

Q. Yes.

A. As I'm saying, I really would need to look at the document. As I recall, in general terms we did not find a highly significant difference, but there were, as always, limitations with that study.

Q. What is the name of that -- what is the title of that thesis?

A. I don't recall at the moment. I work with several students each semester and --

Q. What is the name of the student who wrote the thesis?

A. The student is Pam Rivero, R-i-v-e-r-o.

Q. When did she write the thesis?

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A. It was finished for submission in May to the graduate school. 11:2
Q. Are you her dissertation advisor? 11:2
A. This was a master's thesis and I was her advisor, but I advised three students that all finished within a day or two or each other, so I was working on several projects simultaneously, and it's difficult for me at this point in time without them in front of me to keep straight the results of each one. 11:2
Q. I just asked you for the title. 11:2
A. It had to do with gender differences and fear appeals; but I don't recall the exact title. 11:2
Q. Did you actually conduct any original research on this master's thesis? 11:2
A. I advised the student on original research that was being conducted, yes, 11:2
Q. Have you conducted -- is there any other research that you can think of that you have done which impacts -- which studies the impact of advertising on women? 11:2
A. In the work that I do, we have men and women both in the sample, and so we do look at that in the analyses to see if there are differences. I have not -- I have not done 11:2

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work in looking at gender responses, per se, so I would not qualify myself as a person who does feminist research or looks at just women's responses to advertising.

Q. Can you think of any work that you have done since receiving your dissertation, which has found that sex made a difference in terms of the impact of advertising?

A. Well, one of the articles that I had published in JA, where we were looking at emotional response, we did look at demographic variables, but I would have to look at that article again to summarize the findings for you.

Q. What article is that?

A. The one with Roland Rust.

Q. Is that the article from 1993?

A. 1993, right. And I have, like I say, in mentioning Pam's work, it becomes clear to me, I have worked with dozens of students on thesis research and about a half dozen students on dissertation research that -- where I have supervised and advised on research on a number of different topics in different areas, so -- so even -- I'm thinking

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in my mind back to your question on print advertising. I mean, if I go through all of the research that I've done in conjunction with students --

Q. Do you consider all of the advising that you have done on master's thesis and Ph.D. dissertations to be your own work?

A. It's not my own work but it's certainly I'm involved in the design and supervision of that, and so I am a resource person to that student, so my knowledge and expertise, that's what -- that's what they're paying for as a student.

Q. As you sit here today, can you think of any articles that you have written which have found a significant difference or even a difference in the impact of advertising on women as distinguished from men?

A. I would have to look back. As I say, it's typical for the work that I do to actually separate males and females when we collect information, for example, and designing the sample, we try to get equal numbers of men and women. So that we are able to look at the those differences. So across all the work

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there undoubtedly have perhaps have been some differences, but I would really have to go back and look specifically.

Q. So as you sit here today, you cannot think of any?

A. I cannot speak to that today without those papers in front of me, no.

Q. Have you done any original research on the impact of advertising on minorities?

A. I would say that based on my published work, that I have not really looked at that as a demographic target with my work.

Q. And I'm assuming from your last answer that you have never conducted any original research on the impact of advertising on Hispanics specifically?

A. I have not published in that area, no.

Q. Have you given any conference -- have you written anything related to conference proceedings on the impact of advertising on minorities?

A. I don't believe that I have, no.

Q. Have you given -- have you written any materials in connection with conference proceedings related to the impact of

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advertising on Hispanics? 11:32
A. I thought you just asked me that question. 11:32
Q. I was asking about minorities. 11:32
A. Oh, okay. 11:32
So Hispanics, now? 11:32
Q. Yes. 11:32
A. I don't believe I have, no. 11:32
Q. Have you ever conducted any research on the impact of advertising on children? 11:33
A. I'm currently working on a project on the effect of the Internet on -- and children, so we are looking at a number of different dimensions of Internet advertising and Internet sites and children. 11:33
Q. What is the age of the children you are studying? 11:33
A. I think we are looking at -- I think we're looking at from about six years old up to eighteen. 11:33
Q. What are the types of Internet advertisements that you are studying? 11:33
A. We're doing an analysis, but the grant project has several components to it. But we are looking at sites that have been rated as the top 100 sites, and we are looking at how those 11:33

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sites present information and what kind of information they collect on children that log into the site or individuals that log into the site. We've also conducted focus groups with parents relative to how they monitor or what they see as should they monitor their children's Internet behavior.

Q. Are you studying any cigarette advertisements in connection with this research?

A. I'm working with a student right now who is completing a paper for a summer project based on these sites that would include some sites that might have cigarette --

Q. You're working with a student who is doing a summer project on some sites that might have cigarette advertisements?

A. Right. I don't have a list of all of the sites that she has content analyzed, but we have spoken specifically about sites that were cigarette or alcohol-related product sites.

Q. And what is that student's name?

A. Her name is Tracy -- Stacey, rather, Repa, R-e-p-a.

Q. Have you reached any preliminary conclusions in your research regarding the effect of

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Internet sites on children aged six to eighteen?

A. I haven't yet because I have not met with her relative to the outcome of the analysis.

Q. What is this -- what stage is this research in?

A. It's close to its final stage for this particular paper that the student is doing because it has to be turned in very quickly. The grant work is still ongoing.

Q. I want to be sure I understand. The research that you're doing concerning the effect of Internet advertising on -- or Internet sites which may contain advertising on children age six to eighteen, that is different from the summer project being conducted by Stacey Repa; is that correct?

A. There is a large project and she is using that data set and some other sites as part of a project that she is doing. So she has worked as an independent study on that site -- on that project looking at the sites, so we're not -- for the grant we're not focusing specifically on cigarette advertising.

Q. Has Stacey Repa conducted any research on the

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impact of any cigarette advertisements which may appear on the Internet on children aged six to eighteen? 11:3

A. It's my understanding that that was going to be part of the focus of this project that she is working on as a paper for her independent study for me. I have not seen the list of all of the sites that she has looked at, and so I don't know exactly how to look at her data yet. We have a meeting scheduled for tomorrow. 11:3

Q. Are you using any of this research to support the opinions you will render in this case? 11:3

A. It may -- it may be new information that I am exposed to as a result of my teaching responsibilities that they might have some impact on my thoughts about things for this case. 11:3

Q. Have you ever conducted any research on the impact of advertising on people living in different geographical areas? 11:3

A. Meaning in different parts of the country? Well, Africa versus Canada? 11:3

Q. Have you done any work? 11:3

A. I believe that we -- that I may have -- I know 11:3

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that looking at demographics at times, certainly in drawing samples, to be sure that you have a representative sample from across the country, I have looked at different regions. 11:37

Q. My question was limited to your research on the impact of advertising on people who live in different geographical areas? 11:37

A. Well, most of my research focuses on the responses to the advertising rather than -- let me retrace here. If you look at the work on my refereed publications, there are no titles that state, as you have, the impact of advertising on individuals in different geographic locations. I do take into account in some of my work, though, that samples are drawn from different parts of the country, for example. So again I would have to look specifically to see whether or not I had specific data that I had actually looked at. 11:37 11:38

Q. When you conducted research which drew as its sample, individuals from different parts of the country, did you analyze those individuals from different parts of the country separately to determine whether advertising impacted 11:38

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those groups differently? 11:3
A. I probably would have done that, yes. 11:3
Q. Can you identify one article for me on your CV 11:3
in which you did that? 11:3
A. Yes. That's what I can't recall right now. 11:3
That would have been typical, though, as I 11:3
said with the male/female, that you would be 11:3
looking to see as a co-variant, that it might 11:3
have impact -- it might have some impact 11:3
because it was male or female. 11:3
Q. But as you sit here today, you cannot identify 11:3
one; is that correct? 11:3
A. Not right at this moment. 11:3
Q. Professor Stout, would you name for me all of 11:3
the studies you have conducted using cigarette 11:3
ads as stimulus materials? 11:3
A. The studies that I've conducted or my 11:3
published research? 11:3
Q. The studies that you have conducted? 11:3
A. Meaning on my vitae? 11:3
Q. Correct. 11:3
A. Not work with other work; I would have to go 11:3
back and look at the actual sample, but my 11:4
thought would be that the endorser article 11:4
with Young Sook Moon in 1990. There may have 11:4

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been cigarette advertising in that sample.
Q. Is that your recollection; that your article entitled, "Use of Endorsers in Magazine Advertisements" which you authored with Young Sook Moon, contained advertisements -- print advertisements concerning cigarettes?
A. I'm saying that I would need to go back and look at the data set to see. We would have analyzed a large number of ads and we were looking across a wide range of product categories for that study and looking at the use of endorsers. And so I would have to go back, but ...
Q. Would your article reflect the product categories you studied?
A. As I recall, we did use product category as a co-variant.
Q. If you had studied cigarette advertisements in that study, would that be reflected in your article?
A. It may or may not be. It would depend on how the categories had ...
Certainly the focus of that research was on the endorsers and which -- where endorsers appeared in magazine

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advertising. 11:4
Q. My colleague is getting a copy of that article 11:4
for you. I will represent to you that on Page 11:4
542, the nine categories that were studied -- 11:4
MR. HOHN: Let's let her get a 11:4
copy of the document. And I would like one, 11:4
too, if you are going to start reading it. 11:4
MS. TYLER: I'm just trying to 11:4
move things along. Let's take a look at the 11:4
document and I want to make sure she has a 11:4
copy. 11:4
MR. HOHN: I know, but I would 11:4
like to see it, personally, because I'd like a 11:4
copy, too. 11:4
MS. TYLER: I don't know if we 11:4
have enough copies for all counsel. 11:4
THE VIDEOGRAPHER: I'm going to 11:4
change tapes at this time. 11:4
MS. TYLER: Let's take a break. 11:4
THE VIDEOGRAPHER: Off the record 11:4
at 11:42. 11:4
(Whereupon, a brief recess was 11:4
taken). 11:4
THE VIDEOGRAPHER: This the Tape 11:4
2. We're back on the record at 11:49 a.m. 11:4

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BY MS. TYLER:

Q. Professor Stout, I apologize, we are not able to location an additional copy of your article entitled, "Use of Endorsers in Magazine Advertisements." I will give you my copy, ask you to take a look at that and we can mark that as Stout Exhibit 3.

(Marked, Exhibit No. 3, Article, Use of Endorsers in Magazine Advertisements).

A. (Witness peruses document).

Q. The pending question is, I asked you to name all the studies that you have conducted using cigarette advertisements as stimulus materials, and you identified this study as one possible study in which you used cigarette ads as stimulus materials. I direct you to Page 542 where you identify the nine product categories you studied. Could you read those products for me, please?

A. The nine categories that you have highlighted here are service, food, liquor, drugs, durables, household supplies, personal care, apparel, and others.

Q. Tobacco is not mentioned as a product category, is it?

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A. No, it is not. Would you like this? 11:5
Q. Sure. So my question is, can you think -- can you name for me all of the studies that you have conducted using cigarette ads as stimulus materials? 11:5
A. Relative to my published work, I don't believe that I have looked at cigarette advertising particularly in magazines. Obviously, I do -- I review a lot of other work besides what I do in my publications, so ... 11:5
Q. Well, I'm not limiting my question to your publications with respect to any writings you've done in connection with conference proceedings. Have you done studies using cigarette ads as stimulus materials? 11:5
A. Given the work -- may I? -- on refereed publications or other work, so including published journal articles or in conference work, it -- I don't believe that I have looked specifically at cigarette advertising in print media. As I say, though, I do -- I am familiar with cigarette advertising in print media. I do review other work. 11:51
Q. But in terms of your original research, you have not conducted any using cigarette ads as 11:51

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stimulus materials; is that correct?
A. My primary research as published and presented has not tended to focus on cigarette advertising, no.
Q. Has not tended to focus on cigarette advertisements or has not focused on cigarette advertisements?
A. The samples of ads that may have been used have not been ads for cigarettes, as I recall, as I say.
Q. What percentage of your conference papers and published work concern tobacco use?
A. Well, it depends on how you mean tobacco use. Obviously, work that has to do with social issues, tobacco use is a --
Q. Is tobacco use slightly more specific than social issues?
A. I would think it would be, yes.
Q. So my question is, what percentage of your conference papers and publications concern tobacco use?
A. In some of the work that I do where I look at social issues, tobacco use is a risk factor for some issues.
Q. Have you discussed tobacco use in those works?

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A. I can't say precisely, but I don't believe that I have tended to focus on the use of tobacco in the work that's presented in my vitae. 11:5
Q. Can you say imprecisely? 11:5
A. Meaning? I have done a lot of work. I've seen a lot of work. It's very hard for me, as I say, for examples, if you're looking at a sample of ads, for example, for me to recall what every ad was. I can't qualify that I've not -- that I've not seen, for example, in the sample, cigarette advertising. But the general focus of my research, there are no papers in here that are titled precisely the study of tobacco advertising, as you can see by reading the vitae. 11:53
Q. So my question remains, what percentage of your conference papers and publications are about tobacco use? 11:53
A. I would say a very small percentage would be directly about that, of this part of my work. 11:53
Q. Very small percentage, meaning zero? 11:53
A. I'm unable to say precisely zero without going through and looking at everything again. 11:53
Q. What percentage of your conference papers and 11:54

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publications are about tobacco advertising?
A. A very small percentage.
Q. Can you quantify that percentage?
A. I would hesitate to do that without going back through all the papers.
Q. Is it more than zero?
A. It may be more than zero.
Q. But as you as you sit here today, you don't know?
A. I would have to look at all the papers again. But this is just one -- what is on my vitae is just one component of the work that I do. So if we're looking at published work, obviously, as I said, I work with student work, things that I review, papers that I read. Obviously, this is -- this is a component of the bulk of my knowledge and expertise in the area.
Q. Do you claim expertise based on -- based solely on items that you've reviewed that you've not done original research on?
A. For this case, you mean?
Q. In general.
A. I have conducted primary research. I've taught classes. I've done secondary research. I've reviewed articles.

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Q. My question is, though, do you assert you have expertise in an area where you have simply reviewed the work of others? 11:5

A. One, I believe, certainly does build expertise as one reviews more materials. 11:5

Q. That wasn't my question. My question was, do you claim expertise, do you claim to be an expert in areas in which you have only read articles on the subject? 11:5

A. Do I, personally, you mean? 11:5

Q. Yes. 11:5

A. I would hesitate to say that that would be the case. I think that people do more than read articles. They -- depending on what the topic is, for example, because some things we participate in we have firsthand knowledge of because we're users of the product category or we've experienced whatever the issue is. 11:5

Q. As you sit here today, Professor Stout, are you professing expertise in an area in which you have only reviewed articles and have not conducted any original research? 11:5

A. I believe I have expertise in many areas, the areas we're talking about today. So which particular area are you talking about -- 11:5

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Q. I'm just asking you to identify an area -- if there is such an area, in which you profess expertise, in which you have simply read the articles of others. 11:56

A. Well, I'm sure there might be areas, but not that I'm professing. Certainly, I have expertise in advertising and in marketing and consumer behavior and it's built on a number of different components of my work. 11:56

Q. Have you done original research in advertising? 11:56

A. I have done original work and research in advertising. 11:56

Q. Have you done original research in marketing? 11:56

A. I would say that I have done original research in marketing. 11:56

Q. Have you done original research in consumer behavior? 11:56

A. I have done original research in consumer behavior. 11:57

Q. What research have you conducted, Professor Stout, concerning promotional activities? Let's take promotion in general? 11:57

A. On my published work, or -- 11:57

Q. Let's -- as reflected on your CV, yes. 11:57

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A. For the most part, my research has focused on advertising, per se, 11:5
Q. As distinguished from promotional activities? 11:5
A. So I have not looked at personal sales, for example. 11:5
Q. Can you point me to any research that you have conducted regarding promotional activities? 11:5
A. On my published work, I don't believe that any of the articles cover promotional activities. 11:5
Q. When you refer to published work, are you referring to everything that appears on your vitae? 11:5
A. I am referring to that, yes. 11:5
Q. So would it also be correct that you have not conducted any research on cigarette promotions; is that correct, as reflected on your CV? 11:5
A. As reflected on my CV, that would be correct. 11:5
Q. Can you -- I'm sorry? 11:5
A. I was just going to say, although obviously, I have reviewed other articles and I have personal experience with cigarette promotions, et cetera, but I have not conducted primary empirical research. 11:5
Q. Are you professing expertise here today on 11:5

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cigarette promotions?

A. I have -- what do you mean by expertise, then? What constitutes?

Q. I'm asking you. As you sit here today, are you professional expertise in the area of cigarette promotion?

A. As I've said, I don't have -- as you look at my vitae, I have not published in that area. So if you're using that as -- I'm not quite sure what your criteria are.

Q. Have you done any research in any area that is not published, that does not appear on your CV?

A. I teach about promotion in my classes. I teach a campaigns class. Promotion is a major component of that. I'm working on two textbooks of which promotions are major chapters in those textbooks, and so I feel like I have expertise in that area to be able to comment on that, more so, certainly than the average person.

Q. Do you discuss cigarette promotions in your classes?

A. It would be discussed, yes.

Q. It would be discussed, or it is discussed?

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A. Different things get discussed during different semesters based on what is happening in the media, what the students' personal interests are, et cetera. 11:5

Q. Do you recall having discussed cigarette promotions in your classes? 11:5

A. I probably have, yes. 11:5

Q. As you sit here today, you can't recall? 11:5

A. I can't recall every single -- I've been lecturing since 1979 or 1980. I've taught many classes. There are sixteen weeks to a semester. Three days a week to each class times sixteen times two classes, so I can't -- it's very difficult for me to say precisely. Obviously, cigarette advertising has been a controversial issues for many years that I've been teaching, so it is likely that it has come up in my classes. And we certainly talk about cigarette advertising and promotions relative to discussions in my graduate seminars where we're looking at social effects of advertising, the effects of advertising on children, et cetera. 11:5 12:0

Q. Professor Stout, as you sit here today can you recall a class in which you have discussed 12:0

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cigarette promotions? 12:0
A. I would say in my theories classes that I 12:0
teach, as well as in my campaigns -- 12:0
advertising campaigns classes that it would 12:0
have been discussed, yes. 12:0
Q. It would have been discussed or it was 12:0
discussed? 12:0
A. It's impossible for me to recall everything 12:0
that was discussed in every -- 12:0
Q. So you can't recall whether or not you've ever 12:0
discussed cigarette promotions in your 12:0
classes; is that correct? 12:0
A. I feel that the question is -- that you're 12:0
asking me to remember everything that was 12:0
discussed in every class that I've ever 12:0
taught, and I don't think that that is 12:0
possible and not just for myself. I could ask 12:0
you every deposition that you've ever taken, 12:0
can you remember everything that was ever 12:0
discussed. It's -- 12:0
Q. I'm not asking you to recall everything that 12:0
was ever discussed. I'm asking you simply if 12:0
you can recall. If you can't, then -- 12:0
A. Well, I can recall --
Q. -- that would be the answer. 12:0

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A. I would recall, yes, then that it is because we've read articles. It's part of the components of the class in teaching students how to do campaigns. So if you are looking for a yes or no answer, then I will say yes.

Q. And what course do you specifically recall discussing cigarette promotions in?

It would be in the advertising campaigns classes that I've taught over the years, as well as in the theories of advertising classes with the graduate students.

Q. It would have been in those classes, or it was in those classes?

A. You're asking me again to remember every single thing that I talked about in those classes. And I'm sorry -- I can't do that.

Q. I'm simply asking you, Professor Stout, if you recall discussing cigarette promotions in those classes. And you either do recall or you don't recall, and that's all I'm asking. Do you recall discussing cigarette promotions in your advertising campaigns class or your theories of advertising class?

A. I do not recall the specific date and the

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specific lecture and the specific students that brought up which specific issues, but it would be a topic that would be discussed in those classes because it is an essential topic to social effects of advertising in most textbooks or anything you look at, so ...

Q. You mentioned that you have two textbooks in progress?

A. Right. There is a management book and an introductory book. Those are under works in progress on the last page. Well, not of this one.

Q. You have two textbooks in progress that are not reflected on this CV that's been produced to me?

A. Oh, no. They are. They're -- two up from the bottom. Grant proposals are on the bottom. I'm sorry. So the textbook with Lackenby and the textbook with Solomon and Rotzoll.

Q. John Lackenby was your dissertation advisor; is that correct?

A. That's true.

Q. How much have you written of your advertising management textbook as you sit here today?

A. We probably have about four chapters

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completed. 12:03
Q. Of those chapters, how many did you write? 12:03
A. I have written two of those chapters. 12:03
Q. Of the textbook entitled the Advertising Around Us, how much of that textbook have you written? 12:03 12:04 12:04
A. I'm preparing one chapter right now and I believe we have three chapters written between the three of us. 12:04 12:04 12:04
Q. And in those textbooks, do you discuss cigarette advertising and promotion? 12:04 12:04
A. There are chapters in those books on promotion. And I will be writing the promotion chapter, but I have not completed that yet. 12:04 12:04 12:04 12:04
Q. My question was, do either of those textbooks discuss cigarette advertising or promotion? 12:04 12:04
A. When those textbooks are completed, they will discuss that. They are not completed yet. 12:04 12:04
Q. So as you sit here today, the portions that have been written do not address cigarette advertising or promotion; is that correct? 12:04 12:04 12:04
A. The chapters that are written to date are not the promotion chapters where that would be discussed. Although -- well, for the intro 12:04 12:04 12:04

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text, the chapter -- the chapter on Advertising Around Us and Social Effects has been written, so there may be discussion of that in there, but I did not write that chapter. 12:04 12:04 12:05 12:05 12:05

Q. Can you describe the ratio of expenditures on promotions versus expenditures on advertising for cigarettes over the past twenty-five years? 12:05 12:05 12:05 12:05

A. What do you mean by explain? 12:05

Q. Can you describe the ratio? 12:05

A. I don't believe I can. 12:05

Q. Do you know what proportion of dollars are spent on advertising versus promotion for cigarettes, as you sit here today? 12:05 12:05 12:05

A. I don't know that there is -- that there is good information on that; that that is all reported. 12:05 12:05 12:05

Q. It's your -- 12:05

A. I know that the ratio has been changing so that advertising -- the ratio of money spent on advertising has been dropping and it's been increasing for promotions. 12:05 12:05 12:05

Q. And as you sit here today, is it your opinion that information regarding advertising dollars 12:05 12:05

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or dollars spent on advertising versus dollars spent on promotion is not publicly available?

A. It's more difficult to get access to the promotion dollars. Obviously, there'd also be some concern as to how those were collected -- how that secondary data source defined advertising and promotion.

Q. Have you conducted any original research that discusses how advertising and promotion work differently in helping to sell various products and services?

A. I believe as we have spoken about my vitae that I have not.

Q. Of your grant-funded research, which has dealt specifically with cigarette advertising?

A. The -- there was a component to the work that had been done in Minnesota on the heart health campaign. Obviously, cigarettes or tobacco use, rather, was a risk factor in that study. So it was one much many risk factors in heart disease that were studied in that project.

Q. In conjunction with your heart healthy -- am I saying that correctly?

A. Heart health.

Q. -- heart health project, did you study

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cigarette advertising?
A. We had looked at advertising because we were looking at how to design messages that would be able to respond to the messages that were out there for the public relative to those different risk factors. So I would have looked at cigarette advertising at that time, yes.
Q. You would have looked at it or you did look at it?
A. I would have looked at it and I --
Q. What cigarette advertising did you review?
A. I would have reviewed advertising that was in the media at the point in time when we were doing the study, and I would have looked at advertising that was -- tried to get a sense on historical -- some kind of historical venue, as well, for context.
Q. What -- can you name a specific cigarette advertisement you reviewed?
A. I can't. It's almost twenty years ago. I would have to -- I'm not sure I even have notes on that relative to that far back.
Q. So as you sit here today, with respect to this heart health project that you did when you

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think you would have looked at cigarette advertising, you cannot recall a single cigarette advertisement you reviewed?
A. Not specifically, no; because I would have viewed very many.
Q. How about generally?
A. I couldn't recall a specific one. Generally, I would assume I had been looking at the brands that were being advertised at that point in time.
Q. Can you name the brands that were being advertised at that time?
A. There were many brands that were being advertised at that time.
Q. Can you name one?
A. Camel, Marlborough.
Q. And this was twenty years ago?
A. Right.
Q. Can you describe the Camel campaign from 20 years ago when you conducted this heart health project?
A. I would have to look specifically. I can't recall by dates when every campaign changed. I know that the Camel campaign has changed over time, so it has used different characters

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as spokespersons, for example, and it has had -- it has changed in the way that it is presented its advertising over time. But at this point, I could not give you dates when each campaign had changed.

Q. And I simply asked if you could recall what the Camel campaign was at the time you did that research?

A. I can recall other Camel campaigns, but I cannot say unequivocally that they were in 1978 or 1979.

Q. I don't -- I'm sorry?

A. I'm sorry; which is what I thought you were asking.

Q. I don't believe that your CV reflects any prior consulting work. Have you ever consulted prior to your involvement in this litigation?

A. I've done some consulting with advertising agencies, and I've done consulting with health entities.

Q. And is that consulting reflected on your vitae?

A. Some of it is, relative to the work with, like, Olgilvie and Mather, for example.

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Q. What did you do for them?
A. I was engaged to look at the nature of emotional response to advertising.
Q. What products did you examine?
A. We were looking at consumer products. I recall one at the time -- and I can't recall all, but I know that we were looking at Johnson & Johnson -- like baby powder and some things in those categories. We were looking at things that were probably more skewed to women because I was -- were looking at women in the target.
Q. Did you examine television ads in connection with this consulting work?
A. As I recall, these were television ads, yes.
Q. What other consulting work have you done that's not reflected on your CV?
A. I have done some work for the Texas Department of Health in reviewing proposals.
Q. Anything else?
A. I have done some work with -- I can't recall the name of the company -- a local company in town to help develop research for a strategy for a company that they were representing which was, as I recall, a pawnshop in town --

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EZ Pawn, which is a national group. 12:1

MS. TYLER: Do you want to take a break now? 12:1

MR. HOHN: You read my mind. 12:1

MS. TYLER: We'll take a short break. This might be a good time to take a lunch break. 12:1

THE VIDEOGRAPHER: 12:12. 12:1

(Whereupon, a luncheon recess was taken). 12:1

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A F T E R N O O N S E S S I O N

THE VIDEOGRAPHER: Back on at 1:15. 13:15

BY MS. TYLER:

Q. Professor Stout, we're back on the record after a lunch break. Are you ready to proceed?

A. I am.

Q. Professor Stout, your CV reflects that you had an article under consideration for publication with the Journal of Popular Culture entitled "The Myth of the American West and the Use of Western Landscape in Conveying Meaning in Advertising."

Are you familiar with that article?

A. I am, but it is not under consideration yet. It is still in -- it has not been submitted yet. It is still being written -- for submission to, so it's in preparation for submission. It's not under review.

Q. You're planning to submit that article to the Journal of Popular Culture?

A. I am, yes.

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Q. What stage is that article in? 13:16
A. It's in -- I haven't actually begun writing yet. It is -- I've been collecting information -- since I've moved into the Dean's Office, my productivity level on other fronts has been reduced somewhat. But -- so I do not have any written text on that yet, but I've been gathering information and taking notes. 13:16
Q. Can you describe the thesis of that paper for me? 13:16
A. The thesis of that paper? 13:16
Q. Uh-huh. 13:16
A. The point of that paper is to look at how the issues relative to landscape and imagery are incorporated into different aspects of advertising as it's part of our culture. 13:16
Q. What hypotheses are you trying to prove or disprove in that article? 13:17
A. It's not really an empirical study, per se, so there won't be hypotheses presented. It's more of a -- what you might call a descriptive or essay piece, but it's looking at literature from different aspects and literature from, like, history -- American history, work on the 13:17

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west now. There is a lot of revisionist history about the west and the settling of the west and American culture, et cetera, and so it's building off of some of that, then, and using those -- applying some of those ideas to advertising, and how we look at landscape -- the role of landscape, for example. 13:1

Q. Do you study advertisements that employ western themes in the course of that article? 13:1

A. I've been collecting advertisements, yes, that have western imagery, landscaping imagery. 13:1

Q. Is your study of western imagery limited to landscape imagery in this article? 13:1

A. It has to do more with landscape, so I'm looking at -- because that tends to be most pervasive in ads -- relative -- I have collected some things that may contain a native American, for example, but my main area of interest has to do with the landscape. 13:1

Q. How many different product categories have employed western imagery? 13:1

A. I can't really answer that. Right now I'm not collecting the ads based on product category or -- and I haven't done a systematic enough analysis of the ones that I'll have. I'm not 13:1

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certain that when the ad is finished that the ad -- the article, rather, is finished, rather, that it will, in fact, report those kinds of things, similar to the article you presented to me earlier on celebrity endorsers. At least at this point in time, my vision and obviously the vision of the paper changes as one continues to assemble information, is that it will -- it will not be that quantitative in its base. 13:1

Q. But you have been collecting advertisements that use western imagery? 13:1

A. I have been, yes. 13:1

Q. In the course of collecting those advertisements, can you identify for me some product categories that have employed western imagery? 13:1

A. Certainly. Obviously, there is cigarette advertising, tobacco advertising, automobile advertising often places the automobile in some marvelous landscape. I believe there is even some cologne ads in the collection and I'm sure there are many other product categories, but ones that are perhaps less obvious or less -- what do I say -- where 13:2

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western imagery is used in a less pervasive manner. 13:20

Q. Clothing? 13:20

A. Clothing, yes; certainly Ralph Lauren has run older campaigns. 13:20

Q. Can you think of any other product categories that have employed western imagery? 13:20

A. Not off the top of my head, no. 13:20

Q. What constitutes western imagery? 13:20

A. Well, it could be a number of things. As I said, it could be blue jeans and cowboy boots. Certainly landscape implies wide open spaces quite often. There are certain images that have to be western, like saguaro cacti because they only grow in certain parts of the country and those happen to be the American southwest, so it could range in a number of different things. 13:20

Q. Do you believe that western imagery is effective in advertising? 13:20

A. Well, that's not exactly what I'm pursuing in this paper. I think what I'm -- obviously one of the issues is relative to -- Americans, there is a myth of the west and Americans have been fascinated with the west and there is a 13:21

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revisionist history in American history, so it's really quite -- quite a popular topic, certainly from academic perspective and I think it's a popular image with the culture. The purpose of this paper isn't really to test that, though. That isn't to say that a paper that grows out of this wouldn't test that, but at this point I'm looking more at the images themselves, rather than the individual's reactions to the images. 13:21

Q. Do you think those images are positive or negative as they are used in advertising? 13:21

A. Well, it's hard to say. Part of it is the mythology of it. I suppose sometimes as I go through the ads I think that they'll be interesting comments on the state of the -- of our geography twenty or fifty years from now when we don't have those wide open spaces anymore. So it would be harder -- we have computer imaging, so we can create them, but -- so I think part of the notion of Americans have had -- it is this myth. We've had this affinity and affiliation with the west and all of the myth that's connected with that -- progress, freedom, being able to strike out on 13:21 13:22

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your own. A lot of -- the number of different things that motivated people to move westward from the eastern seaboard throughout time, so ...

Q. Do you think that the product categories that you have named employ western imagery in their advertising because they think it's effective?

A. I would assume they're employing it for a specific purpose, and so I would assume that they think it's effective and that's why they're using it,

Q. Do you think that western imagery is effective in advertising?

A. By effective, you mean that it increases sales? That it builds positive attitudes? Or it makes people like the ad?

Q. What do you think it means to be effective in advertising?

A. There are a number of different measures. It depends on what your objectives are. So if your objectives are awareness, it could just create awareness and you would say your advertising was effective because your objective was to increase awareness from 15 percent to 25 percent of some target group.

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Q. Increase awareness of a brand? 13:2
A. It could be whatever your objective is. 13:2
Awareness of the brand. Awareness of the 13:2
slogan. Awareness or knowledge of the 13:2
behavior that people are supposed to do in 13:2
response to whatever that issue is. Fasten 13:2
your seatbelts after you -- when you get in 13:2
the car. 13:2
Q. Do you believe western imagery is effective in 13:2
increasing sales in the product categories 13:2
you've studied? 13:2
A. I really don't have evidence at this point in 13:2
time because I haven't looked at it in that 13:2
way. And so at this point for this paper, I'm 13:2
not really examining. I'm looking more at the 13:2
issues relative to the mythology and how 13:2
that's connected with imagery. And at a point 13:2
then, obviously I could, once I felt I had a 13:2
good sample of ads, take and look for those 13:2
product categories, look at sales and I would 13:2
assume I would do something comparative; look 13:2
at ads that didn't have the imagery, and if I 13:2
could attribute the sales to the ad, which 13:2
would be another -- I mean, is it a -- that 13:2
this ad caused the sale, so ... 13:2

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Q. How would one do that? How would one attribute a sale to an ad?

A. It's very difficult to do, certainly for many products because of all of the issues that impact how people make decisions. And so certainly one of the -- one way is couponing because you have somebody returns the coupon, so you know for sure that that ad caused some behavior or was influenced, was responsible for. 1-800 numbers that you see on television. So they tend to be more direct response, is the most valid way of making a correlation between the ad message and the sale because you need to have more of a direct measure.

Q. But in terms of straight print advertising, not promotions or coupons or 1-800 numbers, how does one attribute a sale to an ad?

A. Well, I think it's very difficult to do, because advertising is not -- is only part of the communications mix that's being used by a marketer, typically. And it's also only part of how people get information about products and brands.

Q. Do you plan to explore the effectiveness or

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ineffectiveness of western imagery in those product categories in the course of this article? 13:2

A. In this article, really, I'm just laying out -- it's descriptive in that sense. So I'm looking to see what's out there and how -- how thoughts about pursuing this in some sort of theoretical or academic manner relative to mythology of the American west as it's presented in a lot of history books, for example, in revisionist history books, how that may be applied to the use of that in advertising. And then a follow-up paper easily could be to look at consumer response to that. I could -- there are a number of avenues one could do next. But this is a popular culture journal, and so it has to do with the role of that in the popular culture. 13:2

Q. As opposed to its effectiveness or ineffectiveness on individual consumers? 13:2

A. Right. 13:2

Q. Or consumer groups? 13:2

A. At this -- I don't envision talking to consumers for this particular paper. A follow-up paper might very well do that then, 13:2

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so that I could expose people to two ads for the same brand and one had western imagery and one didn't and I could get some kind of response on awareness or attitudes, purchase intentions, et cetera. I could do that, but that's not part of the purview of this paper.

Q. Are you aware that the State of Texas employs western imagery in its advertisements for the Texas lottery?

A. Yes.

Q. Have you studied those advertisements?

A. I see those advertisements, so they would be examples.

Q. Are they part of your study at this time?

A. They would be included in the sample, as would a lot of tourism advertising includes imagery. Again, I say at this point in time my thought is that the focus will be on landscape. Sometimes, like I say, the star for the lottery or a hat or something, I'm not sure that those kinds of things would be included once I make a final decision, but ...

Q. Do you expect to rely on the work you've conducted for this article in connection with your opinions that you will render in this

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case? 13:2
A. Well, it's certainly brings forth my -- the 13:2
reading I've done over the years. I've sat in 13:2
on some classes at UT as a faculty person, on 13:2
American history and western history, art in 13:2
the west. I'm an avid gallery-goer and I try 13:2
to go wherever the big western art galleries 13:2
are, so that I can look at the western art, 13:2
so ... 13:2
Q. Do you intend to rely on your gallery-going to 13:2
support your opinions that you will render in 13:2
this case? 13:2
A. It certainly would -- could play a part 13:2
because of the numerous things that I would 13:2
see that employ western imagery by artists 13:2
that are traditionally western painters or 13:2
even not traditionally western painters. 13:2
Q. Do you intend to offer opinions in this case 13:2
about western imagery? 13:2
A. If I am called upon to do that, I feel that I 13:2
could, yes. 13:2
Q. And what would your opinions be with regard to 13:2
western imagery? 13:2
A. That it is -- well, I would have an opinion 13:2
that it is certainly -- and I can't even say 13:2

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pervasive in advertising yet because I don't -- I have not done a systematic sample. I guess with the paper, not done, it's really hard to -- it's hard to say exactly.

Q. So as you sit here today, you have no opinions that you plan to offer in this case with regard to western imagery; is that correct?

A. Well, I guess what I would say is that there is evidence that in even American history, and revisionist western history relative to what -- what kinds of -- what should I say -- feelings or values and the like that some -- that even the notion of going west has. And so the issue would be, then, if there is an association with some of these things, but if by using western imagery, in fact, then you also tap into those kinds of notions, if you tap into that mythology that is such an essential part of American culture with the whole westward expansion, et cetera, et cetera.

Q. Is it your opinion that those feelings and values with respect to western imagery translate into effectiveness of an ad?

A. I think it's possible that they could have

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some impact on how people process the ad, yes. 13:3
Q. I didn't ask you about the impact in which 13:3
some people process an ad. I'm asking you if 13:3
you think that the feelings and values that 13:3
people associate with western imagery 13:3
translate into effectiveness of an ad? 13:3
A. I would have to know how you were defining 13:3
effectiveness then. Did you mean sales or 13:3
recall or logo recognition or attitude to the 13:3
brand? It would depend.
Q. Let's take talk about sales. Do you plan to 13:3
offer an opinion in this case that the 13:3
feelings and values that people have come to 13:3
associate with western imagery, whatever those 13:3
feelings and values may be may be, translate 13:3
into increased sales for product categories 13:3
that employ those images? 13:3
A. I don't know if I'm prepared at this time to 13:3
say that because I will not -- for this paper, 13:3
at least, I'm not intending to look at sales 13:3
data, so 13:3
Q. How about brand recognition; would you be 13:3
offering an opinion in that regard? 13:3
A. It's possible relative to -- if, in fact, the 13:3
images conjure up -- if they tap some basic 13:3

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values and feelings that individuals have, that it would then be associated with the ad in some way. And so it might then have something to do with their attitudes toward the brand or feelings about the brand, et cetera.

Q. Do you intend to offer an opinion in this case that the feelings and values that people have come to associate with western imagery reflect favorably on the brand of product advertised?

A. I would -- I would think -- I would think that probably given what -- I would think yes, I would.

Q. You have no opinion as you sit here today that the use of western imagery translates into increased sales of cigarettes; is that correct?

A. I really don't have evidence to make that kind of a judgment at this point in time.

Q. Professor Stout, of the articles that you have written, which would you say you are most noted for authoring?

A. Well, I don't know which one. Clearly, I think I'm noted for my work in emotional response to advertising, so some of the

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articles from the mid-eighties and in 1990, '93.

Q. Is there is one that comes to mind that you're particularly proud of?

A. Well, I'm proud to some degree of all of my work. So all of it could be better, of course, but I think as far as being noted in the field, I'm noted as a person that does work in emotional response to advertising.

Q. So as you review your vitae and sit here today, no article pops out in your mind that you are particularly proud of?

A. It's a body of work, I think. I have pride that I have some systematic programmatic research efforts, so that I continue to look at -- look at -- and that I'm recognized with a content area. I've continued to apply that content area then more or less indirectly with some of these other issues. Many of the articles that I have either written and been published in journals or presented and/or are published in conference proceedings take an approach that is looking at emotional response. So I continue to work in that area, even though, like I say, it really is a body

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of work.
Q. I'm handing you what should be marked Stout Exhibit 4.
(Marked, Exhibit No. 4, Article entitled Emotional Feelings and Evaluative Dimension of Advertising).
Q. Which is an article entitled, "Emotional Feelings and Evaluative Dimension of Advertising, Are They Related," by Patricia Stout and Roland Rust, which was published in the Journal of Advertising in March, 1993.
Are you proud of this article?
A. As much or maybe more so than others. It did win the best paper in JA for '93. I think it was a tie, so ... It was a tie, but it was one of the two papers that won that year.
Q. When you write an article, Professor Stout, do you conduct thorough research?
A. I conduct as thorough research as I possibly can.
Q. And as a social scientist, you're supposed to thoroughly research a topic if you're going to write about it; isn't that correct?
A. You research it as thoroughly as you can, yes.
Q. How many hours did it take you to -- well, let

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me step back for a moment.

What steps did you go through to write this article?

A. Well, multiple steps. As I recall, this is out of the data set that I collected -- as part of a data set that I collected for my dissertation, so these are -- so what this would mean is that as a result of having done my dissertation work, then I would have used that data set to examine other questions or issues that I either expand upon what I had done in the dissertation or things that would have spring boarded off of that.

Q. So in terms of the steps, first, you would have the idea to --

A. First, you would have, right, a question that you're asking that is ideally relevant in some way.

Q. This was a somewhat new question from your thesis; isn't that correct?

A. Well, these are, as you can see, research questions, meaning that the area of work or the body of work in this area has not advanced enough yet to actually really pose hypotheses, so you're not at a point where you can

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actually hypothesize. And so sometimes people will do research questions or sometimes they'll do a null hypothesis just because they don't know sort of what direction they're going to find, so they say maybe it does and maybe it doesn't, but let's see because we don't know. And so research questions were posed here to look at more information on emotional response.

Q. And you had to devise those research questions; isn't that correct?

A. That's correct.

Q. And what would your next step be?

A. Well, the next step would be -- I think it would differ a little bit from this article from other articles, but clearly you would have been doing research in the area, which for this area I would have done predominantly for my dissertation, so that would have been -- the lit review part would have been undertaken at some time previous. You devise the research questions, and then you devise a way to examine those questions. And so, like I say, since I've taken this out of the data set that was in -- an existing data set from

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my dissertation there wasn't the question so much of developing a design, developing the questionnaire or the coding scheme, et cetera.

Q. And then, of course, you wrote the article. That takes time?

A. You write the article at the end, yes.

Q. And I assume you revise the article?

A. Yes. I think -- yeah, you certainly revise it upon writing it, so you're doing multiple revisions, and then typically the review process is such that very rarely do articles -- articles are accepted out right on the first submission, so you get what is called a revise and resubmit, where you revise based on the reviewer's comments and then you send the article in again for review.

Q. If you had to estimate, how many hours did it take you to conduct this research, devise your questions, examine those questions, write and revise this article?

A. That would be very difficult to do because it happens over a long period of time and so much of this came out of dissertation work. I worked on my dissertation for over a year.

Q. So --

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A. Among other things, obviously. 13:39
Q. If you had not done your dissertation in this same area, and thus, been able to use that data in order to create this article, you would have had to have -- 13:39
A. It would be easier for me to -- 13:39
Q. Let me finish my question. 13:39
A. Okay. I'm sorry. 13:39
Q. If you had not had that previous data set, you would have had to go out and create a data set; is that correct? 13:39
A. Right. And in this case, it is data, as you can see from the front page of the article, from Young and Rubican, so what I had was data that had been collected over the course of years by an advertising agency. So either I would have been -- either I could have collected the data, which would have been expensive to do given that Young and Rubican does it, so it may have taken me quite a long time to get enough money to be able to do that, or I would have then been able to contact an advertising agency, for example, and see if, in fact, they would make available to me with some degree of proprietariness. 13:39 13:39 13:39 13:39 13:39 13:39 13:39 13:39 13:39 13:39 13:40 13:40

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Q. In this instance, using the data set that was provided by Young and Rubican, approximately how many hours did it take you to write this article from beginning to end, including the research, the data questions, the analysis -- all of those steps? 13:40

A. Right. It's hard to say how long it takes to do an average article, because it gets done over such a long period of time. I probably, if I came up with a number, I wouldn't do any more research because I would be so overwhelmed by how long it actually takes. 13:40

Q. Would you say it's a hundred hours? 13:40

A. I'm trying to think of like what is a hundred hours. So could I do this and what would that be; almost three weeks. I think it would be longer than that. 13:40

Q. Okay. Would it be 200 hours? 13:40

A. It -- it just depends on so many things. It depends on when you're doing the analysis; whether or not your research questions, for example, are easy to answer, because it's really clearly there in the data or do you spend more hours on data analysis. As I say, the revise and resubmit, does it count how 13:40 13:41 13:41 13:41

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many times I had to respond to the reviewers --

Q. That's why I'm asking you specifically about this article, and I'm asking you how many hours it took you?

A. Yeah, it would be hard to say. It really would. I'm just trying to think if I sat down today and wanted to do this article, how long would it take me to do it? How many weeks of 40 hour plus weeks would it take me to do it. And it would take quite a while. I hazard to put a number on it.

Q. Would it take you six weeks?

A. Well, let me use this as a way to -- by comparison, perhaps. Working on even thesis projects, students complete this entire process, as well, without usually the submission to a journal, and it takes them a semester at best. And that's given, which would have been true for me, too, they're taking other classes, they're doing other things, don't do this 40 hours a week. I obviously was teaching and working and doing other things while I was doing this, so some weeks you spend 10 hours on it and some weeks

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you don't spend any time at all on it, because it's something else.

Q. That is why I was trying to ask in terms of hours.

A. Right.

Q. Because I understand you don't exclusively spend your time writing one article at a time.

A. Right.

Q. Would you say that it took you -- it took you a semester to write this article?

A. If I was working forty hours a week on it?

Q. Sure.

A. Maybe. It's just hard to say. I could say that it could take -- I could see that it could take a couple of months, if one had nothing else to do but that.

Q. How long did it take you to write this article from beginning to end?

A. Like I say, I worked on this for quite a long period of time, so ...

Q. How long a period of time?

A. Well, as I recall, probably -- if you count that I collected my dissertation data in like '84, '85, and this was published in 1993, obviously it would have been in the hopper for

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a while, in the pipeline for a while, but that would be whatever -- seven years or eight years or something -- seven. And obviously, as I say, I didn't work on it every day for seven years. 13:43

Q. Sure. 13:43

A. And some come to fruition at a -- with a shorter turn around than others do, so ... 13:43

Q. But with respect to this article, it took you seven, eight years? 13:43

A. Well, if you count that you collected the data for my dissertation -- obviously, I didn't start working on this article then, because I've worked on other articles that published in '80, so around of my dissertation set. So I would not say it took me seven years to do this article. But clearly that the data were collected in '84, '85, that by the time this particular article came to fruition, that obviously there is a calendar there and it was from '84 to '93 for this one to be published. But I'm sure I sat -- I think I went up for promotion during this time. I was active in the American Academy of Advertising as an officer at this time. I was graduate advisor 13:44

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at this time. So I was doing a number of other things on top of my teaching and research besides working on this article, so ... 13:4

Q. But in terms of the beginning of the data set to the final article -- 13:4

A. Right. 13:4

Q. -- in the journal of advertising, that took 7 to 8 years? 13:4

A. If you would look at the time I collected my dissertation data, right, till the time this was published. 13:4

Q. Would you agree that thoroughness is an important factor in conducting research in your field? 13:44

A. I would. 13:44

Q. And when you do research, you try to be as thorough as humanly possible, do you not? 13:44

A. I try. I think all people do, my colleagues. 13:44

Q. Do you try to look at unbiased data? 13:44

A. By unbiased data -- 13:44

Q. Data which does not clearly advocate one point of view over another? 13:45

A. I think most academic research tries to look at multiple points of view, and so you usually 13:45

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are -- there are conflicting points of view and that is why you're doing the research. So that you're looking at if -- oftentimes with a literature review, for example, you have some articles that indicate that if X, then Y, and another body of the literature says if X, then Z. And so you're going okay, where does this meet. I'm going to do another study to see if I can learn.

Q. If you were to look at data which you knew was biased, advocating one position over another, would you take that into account in considering that data to reach your conclusions?

A. If I knew the data were biased, and I'm not sure what you mean by biased at this point, I mean, it could be biased in different ways.

Q. Well, I meant biased in terms of advocating one conclusion over another conclusion. Would you take that bias into account when considering that information in reaching your conclusions?

A. I would attempt to, yes, if I was aware of it.

Q. And if you looked at biased data in the course of your research, which you knew was biased,

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would you also try to look at data on the other side of the issue? 13:4

A. Well, assuming that this is in the lit. review that you're speaking about, I would try to do as complete a lit review as I could. Obviously one does not hit everything and between the time something is published and the time that you do the actual research, other articles come out. So sometimes I think people are more -- like I say, there may be possibilities where you have -- situations where you have, in fact, not included something in your work -- at some point you have to draw the line because it has to go off. It can't -- 13:4

Q. Certainly. But of available data when you are conducting research, do you try to look at positions on all sides of an issue? 13:4

A. I would attempt to do a complete lit review, if that's what you mean. 13:4

Q. When you do research, do you try to be as accurate as is humanly possible? 13:4

A. I attempt to. 13:4

Q. And you try to obtain all available information that might help you form an 13:4

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opinion before expressing that opinion, do you not? 13:4

A. I attempt to, yes. 13:4

Q. I'm sorry? 13:4

A. I attempt to, yes. 13:4

Q. Do you think you're successful? 13:4

A. I doubt that I'm successful a hundred percent of the time because of the nature of -- especially in this research, for example, of gathering all pieces of information that are out there, and -- and -- and at some point you stop the lit review and you move on in. You use the lit review to develop your questions, and then you move forward. And if you find an additional piece of information then you don't stop and go all the way back and say I'm going to revise my questions and recollect my data. 13:4

Q. Professor Stout, how hard do you try to obtain all available information that might help you form an opinion before expressing that opinion? 13:4

A. I try as -- given the circumstances, I try as much as I can. I try to be as thorough as I can. 13:4

Q. So when your article is completed and 13:4

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published it represents your most thorough and accurate work; is that correct? 13:4

A. It represents your best efforts at that time. 13:4

Q. Which you hope is as thorough and accurate as it possibly can be? 13:4

A. You hope that, yes. 13:4

Q. If you state something that is incorrect in your research results, that casts doubt on your work, does it not? 13:4

A. It could, depending on what incorrect means. If it's -- incorrect could be a number of different things. 13:4

Q. Well, for example, I recall in one of your articles you had received some criticism? 13:4

A. Right. 13:4

Q. And you later learned when you were evaluating that criticism that you had merged data sets incorrectly? 13:4

A. Right. 13:4

Q. And you were concerned about that, were you not? 13:4

A. I was concerned about that, yes. 13:4

Q. And you immediately took steps to correct that; isn't that correct? 13:4

A. That's true. 13:4

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Q. And as a matter of fact you published a new article where you admitted that error; is that correct? 13:4

A. Well, that was a response to a challenge on that one article. 13:4

Q. And you -- 13:4

A. So I responded to that, I reanalyzed the data and looked at the data to see why the criticisms or the critiques were made of the original article and in the process of going back I realized that -- because this data set had maybe five, six cards, in those days we had cards. Now you don't have cards, but there were in those days, that some of the cards had been mis-merged and so, in fact -- in fact, then that did change the outcome. And I was concerned about that, yes. 13:4 13:5

Q. And you were concerned about that because you were concerned about your professional reputation; isn't that correct? 13:5

A. Well, certainly. I was concerned that the results came out so much better the second time than they did the first time, because it would look like maybe I had -- it might be looked askance on. So I was concerned about 13:5

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that. 13:5
Q. But you were concerned about that error 13:5
because you want people to think that you do 13:5
complete and thorough and accurate work; is 13:5
that correct? 13:5
A. Right. I think -- that's true, and as I say, 13:5
as much as humanly possible, I do. But 13:5
clearly, that is an example of correctness or 13:5
incorrectness, rather. 13:5
Q. If your research was based on a faulty data 13:5
set, would that have affected -- would that 13:5
affect the results of your research? 13:5
A. Well, depends on what you mean by faulty; 13:5
meaning that the cards are mis-merged. That 13:5
obviously affects the results, which is what I 13:5
had. Like the first card, some set of 13:5
measures from ad 1, were merged with some set 13:5
of measures from ad 3 instead of ad 1, and so 13:5
that would obviously have an impact. 13:5
Q. In the course of your academic work, you come 13:5
to rely on the work of others, do you not? 13:5
A. Certainly, in doing the lit review and in the 13:5
way that we -- as we form our own sense of how 13:5
we think things might work in our area. 13:5
Q. Is that work conducted by peers that you know? 13:5

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A. I don't know everyone's work that I cite, no. 13:51
Q. But you wouldn't use their work if you didn't respect their work, would you? 13:51
A. Well, it all depends on how I was using it. Clearly, if I was -- it gets back to issues you raised this morning about -- where it's from -- you know, a peer reviewed or not; what is the area -- the content area. How much other research is there in the field. Has the person -- have there been other retorts to that person's opinion saying -- giving a negative -- giving a negative tinge to that. 13:51 13:52
Q. Is it your testimony you would rely on work of individuals whose work you do not respect? 13:52
A. Well -- for my writing, for my research, do you mean? 13:52
Q. Yes. 13:52
A. I suppose as we said, there are two -- there are usually at least two points of view or some unanswered question that people are trying to look at when they do their research. And obviously sometimes you might question the validity of some of the research. Oftentimes, that's why people do research because they say, well, this sample was biased, or this was 13:52

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only on individuals, as we said before, that live in Austin, so it's biased in some sense so the generalizations that are made are over-generalized. So that might be a reason to replicate that study or do another study that would look at a different sample, for example. Whether or not I would not respect the colleague who had done that work -- 13:5

Q. I didn't ask about the colleague. I asked about the work. 13:5

A. Well, I would see that the work, as I think I said earlier this the morning, that the work has caveats. There are disclaimers, there are limitations to it. 13:5

Q. Let me rephrase the question, Professor Stout. If there was a piece of work and you did not respect the work of the person who had authored that article, would you rely on that article in your research? 13:5

A. Meaning that I'm working -- that I don't respect the work that I think something is purposely faulty with the work; that it's bad research, that it's -- 13:5

Q. Whatever would cause you to not respect that individual's work. 13:5

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A. I think I would still include it in my work. I would still look at it.
Q. Would you rely on it?
A. Well, it depends what you mean on rely. Is it the only thing that I use as my substantiation, or am I using it in combination with other pieces of evidence. It would depend based on that.
Q. I'm certainly not mentioning -- I'm certainly not referring to a casual mention. I'm asking if you would rely on work that you thought was faulty?
A. Well, and I'm just saying that it's whether or not it's basing my whole premise on research that I think is faulty?
Q. Let's start there. Would you base your entire premise on research that you thought was faulty?
A. If I were testing an opposing viewpoint, I might, yes, because I'm saying I think there is something -- that there is a problem with this research and I'm going to do something to see if, in fact, I can either replicate it or that I find something different.
Q. Do you think that challenging someone's work

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is the same thing as relying on it? 13:5
A. Well, depends -- probably not. 13:5
Q. I think what you've -- 13:5
A. Challenging is -- I'm sorry. 13:5
Q. I think what you've just described is challenging someone's work in an area and that's not what my question addresses. My question addresses whether or not you would rely on a work that you know to be faulty. 13:5
A. Well, it depends how I'm relying on it, like I say. 13:5
If you could give me a specific example, maybe we could -- I mean. 13:5
Q. Professor Stout, in coming to the opinions you've arrived in this case, do you believe you've done all that you can do to get the information necessary to form and defend those opinions? 13:5
A. For this case? 13:5
Q. Yes. 13:5
A. Well, I would say that there is always more that can be done. There are more articles that are being published. My understanding is that there are more documents that have been released that one might be able to review. 13:5

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There are numerous -- there are numerous ways, I think, that one could still continue to prepare, so I don't think it stops. Obviously, I prepare when I walk out to lunch and see advertising. I'm still preparing in some sense, so ... 13:5

Q. The additional documents that you understand have become available, are they internal company documents? 13:5

A. That's my understanding. 13:5

Q. And you have reviewed internal company documents in this case, have you not? 13:5

A. I have reviewed some, yes. 13:5

Q. And do you plan to review additional internal company documents? 13:5

A. I don't know. I think on my statement -- deposition statement, that there is a list on there of materials that I would be reviewing once they were available, so ... 13:5

MR. HOHN: I'll just tell you for the record, we haven't had an opportunity to go through the 460 boxes or the 20 Lorillard boxes, but we're doing that now. And she may be asked to rely upon some or all of those documents. There is just no way to analyze it 13:5

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now because we haven't had time to go through the 460 boxes. 13:57

Q. Professor Stout, do you rely on all documents that your counsel ask you to rely on? 13:57

A. Well, I certainly review all of those documents and I would take those into account in some way, just as I take into account, as we said this morning, I've gathered information from multiple sources. And so my opinions are based on my education, my expertise, my background, the research that I've done, things that I've seen, evidence that I've been exposed to, so ... 13:57

Q. Does a document come to mind as you sit here today that your counsel has asked you to rely on that you don't plan to rely on? 13:57

A. Nothing comes to mind right now, but I may have a hard time sitting here making a mental list of all of the documents that I've seen. 13:57

Q. Professor Stout, I understand that you teach courses at the University of Texas at the graduate and undergraduate levels; is that correct? 13:58

A. Yes. 13:58

Q. Could you list for me the courses that you 13:58

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currently teach at the University of Texas? 13:58
A. I'm currently teaching a class in 13:58
communication and social change this fall and 13:58
also team teaching a public health 13:58
communications case study course, and then I 13:58
can't say what I'll be teaching next spring. 13:58
Last spring I taught the theories of 13:58
advertising course. My teaching load has been 13:58
reduced because I'm half-time in the Dean's 13:58
Office, so rather than typically teaching two 13:58
courses each semester, now I'm theoretically 13:58
teaching one, although you'll note that I am 13:58
teaching two this fall. 13:58
Q. And in addition to your theories of 13:58
advertising course that you taught last 13:58
semester, what else did you teach last 13:58
semester? 13:58
A. I just taught one course in the spring because 13:58
contractually now I'm on a one/one schedule 13:58
because I'm half time in the Department of 13:59
Advertising and half time in the Dean's Office 13:59
by contract. 13:59
Q. And the semester prior to the semester in 13:59
which you taught theories of advertising, what 13:59
did you teach? 13:59

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A. I believe last fall I taught the same courses that I'm teaching this fall, the social change course and public health comm. course. I have taught the theories course is a course that I typically teach more or less every -- once a year. I've taught the affect and emotion in advertising course at the graduate level when there have been courses at the undergraduate level, as well.

Q. How many semesters have you taught two or fewer courses at the University of Texas?

A. Well, our regular -- our typical load is a two-two load, and so there have been -- in the mid-eighties, I taught three courses a semester when there was high enrollment levels, and typically I teach a two/two load. I was reduced to one as a graduate advisor in the spring. I only had one class to make up for the hours that you're spending doing your service. And as I said, contractually for the Dean's Office, I'm academic and professional on a different track. I'm on the academic track, and I'm not totally a staff person, because I'm both and so it means -- you work twice as much and only get half credit for it,

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which is what it means. So contractually I have a one/one load now. 14:
Q. And since the mid-eighties, you have not taught more than two courses in a semester? 14:
A. I think that it was in the mid to late eighties, '86, '87, somewhere in there, '88, maybe we had three, or some of us had three. 14:
Q. Professor Stout, what advertising textbook do you use when you teach advertising courses? 14:
A. It depends on the course. For the graduate course oftentimes I collect -- I assemble a readings packet for the students so we don't have a textbook, per se. For the undergraduate courses, we do tend -- I tend to rely more on textbooks. 14:
Q. What textbooks do you rely on? 14:
A. With the campaigns course, I typically have been using Schultz's Strategic Advertising Planning, I think it is. I've used several editions of that. It was Schultz and Martin. And I think it's Schultz and Barnes right now, but he's had various co-authors over the years. I think maybe a fourth edition or something. 14:
Q. Any other advertising textbooks that you rely 14:

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on? 14:
A. Well, there is another one that I've 14:
oftentimes used in the campaigns course and 14:
the title escapes me now. But there is 14:
another advertising campaigns book that I've 14:
used a couple over the years. 14:
Q. Can you recall the authors of that 14:
advertising -- 14:
A. Well, one of the -- 14:
Q. You need to let me finish the question before 14:
you answer. I know you think you know where 14:
I'm going, but -- 14:
Do you remember the authors of the 14:
advertising campaigns book you just mentioned? 14:
A. Yeah. I'm just trying to think that, and one 14:
of them, I know Arnold Barban is on that. 14:
It's a multi-authored book. Four, maybe five 14:
authors. Don Yugenite Conder [phonetic] might 14:
be on there. He is not -- neither of those 14:
are the lead author, though. 14:
Q. Do you have a basic advertising textbook that 14:
you consider authoritative? 14:
A. What do you mean by authoritative? 14:
Q. That you rely on? You use to teach your 14:
students? 14:

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A. I rely on a number of different books, clearly for the classes, as I said, I've given you examples of texts for the campaigns class. I've also taught the advertising media planning course, and I rely on different texts for that course. Sometimes I may rely on introductory level textbooks because if I look at the media book, obviously it's going to have very little on social effects of advertising or the regulation of advertising. So I might look at a textbook that would be targeted for teaching some other course. 14:0

Q. What text do you rely on for your media planning course? 14:0

A. The media textbook that I had used most frequently was Scissors and Sarmonac, and it's gone through various editions, too. 14:0

We also had multiple courses -- Barban and Kopec, K-o-p-e-c. Crystal Barban and Kopec, I think there is a strategic planning, just for media planning that accompanied that, so they had two or three books because they also did a computer-generated case study that also had media, so there were three books in that one. 14:0

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Q. Are there any other media textbooks that you haven't mentioned that you consider to be authoritative? 14:0

A. Well, I consider these to be authoritative because I use them in the classes. Obviously I'm writing two textbooks now. One at an introductory level, and one at a more upper division level. And so I do look at the competition, and there are -- there aren't so many books that compete with the Lackenby text because that's in an upper division level. I would say the main competitor for that book would be Batra's book, I think it's Batra, Aaker and Myers now, an advertising management book. And then there are numerous undergraduate level textbooks, introductory textbooks. 14:0

Q. That you consider authoritative? 14:0

A. No. That I see as competition for the book that I'm doing. Obviously, our book will be the best. 14:0

Q. Obviously.

Do you plan to use the books that you have mentioned here today again? 14:0

A. Use them in what way? 14:0

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Q. Use them in your coursework? 14:
A. Well, I would assume that I might, yes. 14:
Obviously new books come out -- I think the 14:
typical publication cycle is every two years, 14:
and so books are coming out annually that are 14:
new textbooks in the areas. And so I would 14:
review texts before I made a decision. If I 14:
were going to teach a media course again in 14:
the spring, I would review the existing texts 14:
before I would make my decision for what to 14:
order for the class. 14:
Q. Professor Stout, if the University of textbook 14:
-- of Texas adopted a textbook for use in the 14:
classrooms, would that indicate that the 14:
university felt that that book was 14:
authoritative? 14:
A. Well, the university typically doesn't select 14:
the textbooks, the individual faculty person 14:
selects the textbooks. By nature of academic 14:
freedom and the like, the university doesn't 14:
really have that much input on that kind of a 14:
decision, so one would assume the faculty 14:
person who selected that book thought that it 14:
was of some value for the students. And by 14:
some value for the students, I also mean that 14:

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they may not, depending on what authoritative means, certainly for undergraduate students, some books are more copy heavy than others. They may be -- they may present certain things in some ways that involve a lot of writing and copy and you know that the students are going to not like the textbook and not read it because of the nature of the style of the book, for example. So style comes into play, I think, as well as content and sometimes I think faculty might make a decision on a trade-off of something the students can use because that's not the only input they will get in the course. So obviously if you think, well, I'm picking this book, but the chapters on media are weak, I will supplement that unit by other readings for them, another book, or things in my lecture. So -- I'm sorry. That's a long answer to your question about the university.

Q. Do you think the faculty of the University of Texas would select a poor advertising textbook for use at the University of Texas?

A. Well, it's hard for me to make that decision. I would, like I say, it would depend on

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different faculty would have different reasons for why they pick their textbooks. And a textbook I might think would be poor, they might not think would be poor, so ...

Q. So you think it's possible that the faculty of the University of Texas has chosen advertising textbooks which are poor for use at the University of Texas?

A. Based on the individual faculty person making that decision, I don't know that they would purposely pick a poor textbook unless, like I say, in the example I just gave you that you knew that it was weak in some area, and you were going to supplement that with something else, but I don't think -- as a matter of course, let me say that as a matter of course I don't think the faculty would as a matter of course choose poorer textbooks at the University of Texas.

Q. As a matter of course, do you think the faculty at the University of Texas picks excellent textbooks?

A. Well, I think I just explained different criteria that people would use to pick their textbooks, that the faculty would use. And so

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there are trade-offs. It's not as simple as just picking one book and that one book is the perfect book on every single aspect of a course because the courses cover multiple content units. And so I would think you would pick your textbook -- you would have a reason for picking your textbook, and then you would -- like I say, I can't say what other faculty's reasons would be, but it may -- like I say, it may not have a good case study in it, so you want to bring it -- you might just have the students buy Harvard case studies or something.

Q. Can you think of a single instance in which the faculty of the University of Texas has selected a textbook for use at the University of Texas which is poor?

A. And you mean that this was publicized as such?

Q. It doesn't have to be publicized. I'm asking if you can think of an example of that.

A. Okay. I suppose not. I'm not sure how I would know that necessarily that people had selected poor textbooks.

Q. Well, let's use, for example, your department, can you think of an instance in which the

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faculty of your department had chosen a textbook which you thought was poor? 14:

A. I'm not really familiar with all the textbooks that all my faculty colleagues select for their courses, so some of us teach the same course -- different sections of the same course and don't always use the same textbook. 14:

Q. Well, obviously, my question is limited to things that you would have knowledge of. 14:

A. Right.

Q. As you sit here today, can you think of a single instance in which the faculty of your department has chosen a textbook for use at the University of Texas which you thought was poor? 14:

A. I can't think of any that I'm aware of, no. 14:

MS. TYLER: Can we take a break? 14:

MR. HOHN: If you want to. I mean, I'm okay. 14:

THE VIDEOGRAPHER: We're off at 2:10. 14:

(Whereupon, a brief recess was taken). 14:

THE VIDEOGRAPHER: Back on at 2:30 p.m. 14:

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BY MS. TYLER:

Q. Professor Stout, we're back on the record after a short break. Are you ready to proceed?

A. I am.

Q. Professor Stout, do you consider yourself to be an expert in advertising?

A. I do.

Q. Can you describe what advertising is for me?

A. What advertising is? Well, the textbook definition is that it's paid communication or messages that are -- communicated via mass media with a paid sponsor to a target market.

Q. What is the purpose of advertising?

A. Well, I think advertising has many purposes. And so it would depend on what the objectives are of the individual or group that are using advertising.

Q. Can you describe some of the purposes of advertising?

A. Well, I think it has the purpose of creating awareness, of disseminating knowledge. It also has impact on attitudes and obviously behavior in some way, which may be sales. It may not be, though. So it has multiple --

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Q. Are there any other purposes of advertising that you can think of as you sit here today? 14:3
A. Well, I think that is a good representation. 14:3
Q. Professor, does anyone know precisely how advertising works, if at all? 14:3
A. Well, I think that there is some consensus on how it might work, but there are a number of different models that are available and people still do -- I suppose, try to test some of those models, and obviously, it becomes complex, given all of the factors that are involved. 14:3
Q. Advertising is complex, given all the factors involved? 14:3
A. Well, how advertising works would be a complex question. 14:3
Q. And why is it a complex question? 14:3
A. Well, because there are numerous -- we're looking at individuals, for example, so it's -- the process of individuals, obviously advertising is delivered via different media. There is not complete agreement on what constitutes a definition of advertising. Advertising doesn't exist in a vacuum, so there are also environmental kinds of effects. 14:3

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So it's -- so in part, that's why it's complex.

Q. Do you think consumers responses to advertising are predictable?

A. For what particular behavior, for example?

Q. Purchasing behavior?

A. For purchasing? I think that there is evidence to the contrary; that it's not totally predictable at all points in time. Again, it would depend on who the consumer is, what the product is, what kinds of items figure into the communications mix -- environment.

Q. Let's take a product category, for a certain product. Is advertising for soap -- let me backtrack. Do you think that consumer's response to advertising for soap is predictable?

A. Well, I think different consumers will respond in different ways, and so it's depending on again what the brand is, how long the brand has been out there, whether the person needs soap, what they've purchased before, whether their mother purchased it, et cetera. So I think there are a number of issues.

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Q. Do you think consumer's responses to advertising are highly individualistic? 14:
A. Well I think individuals certainly have their own responses, but those data can -- those responses can be aggregate. It's not like every person is totally different so you couldn't find a common ground for your message for individuals, but people will react differently, I think. 14:
Q. So you don't think that consumer react to advertising in the same way? 14:
A. Not all consumers react to all advertisements or even the same advertisement in the same way. 14:
Q. And that's because people are individuals? 14:
A. People are individuals. They have different experience with the product category. They have different sociological kinds of factors that apply to them. They -- 14:
Q. What sociological types of factors are you suggesting? 14:
A. Well, environment, family, demographic kinds of issues; age and the like. This is evidence that older people process differently. Certainly, eye sight, I can attribute to that. 14:

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I'm fond of large print, for example. So there are a number of differences, and some I think that we say that that research is ongoing. I'm not sure that -- we don't know all the answer. 14:3

Q. Are levels of education one of those differences? 14:3

A. They would be. 14:3

Q. Is religion one of those differences? 14:3

A. Religion could be one of those differences, yes. 14:3

Q. Different sorts of lifestyles, could that be one of those differences? 14:3

A. That could be, yes. 14:3

Q. Upbringing? 14:3

A. Upbringing relative to family situation? 14:3

Q. Yes. 14:3

A. It could be, yes. 14:3

Q. And individuals have different personal experiences, do they not? 14:3

A. They definitely do, yes. 14:3

Q. Some individuals have higher self-esteem than others, do they not? 14:3

A. That's true. 14:3

Q. Some have a greater need for cognition than 14:3

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others, do they not? 14:35
A. That's true. 14:35
Q. And so all of these things can impact an individual's purchasing decisions; is that correct? 14:35
A. That's true. And how they process any kind of communication that they are exposed to. 14:35
Q. Do you think that responses to advertising are easily segmented by demographic variables? 14:35
A. I'm sorry? Would you repeat the question. 14:35
Q. Do you think that responses to advertising are easily segmented by demographic variables? 14:35
A. I think the demographic variables are one criterion that can be used. I think there is more validity in using them for some things than for others, but clearly, advertising relies quite a bit on demographic variables. 14:36
Q. But do you think that studying demographic variables is a reliable way to predict consumers' responses to advertising? 14:36
A. I think that's one way to study that. 14:36
Q. Is it a reliable way? 14:36
A. Reliable meaning? 14:36
Q. Given all of the individualistic factors that we've just discussed. 14:36

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A. It is -- it is one way, and it may not -- like I say, depending on the situation, whatever the product, the product category is, it may not be the best predictor in all cases, but it certainly is an important one.

Q. Well, for consumer products do you think demographic variables are a predictable way to -- do you think that demographic variables are a reliable way to predict consumer response?

A. Well, certainly a lot of consumer products do use demographic variables. I don't know that I would use them personally -- that I would rely on them totally in isolation, but clearly most of the secondary sources are -- present information based on demographics. Magazines, media are purchased often times based on demographics.

Q. Well, apart from the facts that advertisers use demographic variables, do you think it's a reliable measure of consumer response to advertising?

A. I think it's one measure.

Q. Is it a reliable measure?

A. It is reliable in the sense that it is one of

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a group, but yes.
Q. So I'm confused. So you're saying that, I assume, if you think it's a reliable measure that consumer response to advertising for consumer products is predictable?
A. I don't think I'm saying that. I'm saying that if I were going to look at consumer consumers' responses or try to predict their responses on consumer goods, I would find demographics -- demographic variables is one reliable way that I would use. I don't know that I would necessarily at all points in time restrict myself to those.
Q. In the article that you wrote with Professor Rust, Emotional Feelings in Evaluative Dimensions of Advertising, Are they Related, Stout Exhibit 4, you wrote emotional response is an individual response not easily segmented by demographic variables.
A. Could you tell me where that is?
Q. Page 66.
A. (Witness peruses document).
Which --
Q. I'm looking at the bottom of the first column under analysis and results, you write "this

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reinforces the idea that emotional response is an individual response not easily segmented by demographic variables. Thus demographic characteristics are not highly predictive of emotional response." Do you see where I'm reading from? 14:39

A. I do, yes. 14:39

Q. Do you agree with that statement? 14:39

A. For this data set, for this sample that was what our conclusions were based on our results for these 7 ads for soft drink. 14:39

Q. Have you done a study which is reflected on your CV in which you have found demographic variables to be a reliable measure of consumer response to commercial advertising? 14:39

A. I don't believe that I've really focused in research since this on the demographic variables, short of the thesis that I mentioned to you this morning where we were investigating the male/female responses to emotional appeals, in this case fear appeals, for drinking and driving. 14:40

Q. So in the article that we've just discussed from March of 1993, you did not think that demographic variables were predictive of 14:40

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individual response and emotional response to advertising; is that correct? 14:4

A. For this sample -- 14:4

Q. In this article, 1993? 14:4

A. -- of seven television commercials for soft drinks. 14:4

Q. And my understanding is also that in your thesis, you did not find that demographic variables of sex were predictive of emotional response to commercial advertising; is that correct? 14:4

A. I would need to qualify that. I would need to look at that. You're talking about Pam Rivero's thesis? Is that what you're speaking of now? 14:4

Q. Yes. 14:4

A. Yeah, I would need to look at that. 14:4

Q. But that was your recollection earlier today? 14:4

A. My recollection was there was not a significant difference between males and females. But I would have to see that. 14:4

Q. And on Page 68 of this article, Stout and Rust, 1993 -- I'm just trying to find it. I apologize. I'm trying to find a statement. 14:4

MR. HOHN: You're in Exhibit 4 14:4

http://legacy.library.ucsf.edu/tid/xsr07e00/pdf Buttsworth industrydocuments.ucsf.edu/docs/pjfc0001

there? 14:42

MS. TYLER: I am. 14:42

Q. On Page 67, you state, and I'm in the second column under discussion, "Research and psychology suggests that individuals differ in their ability to recognize, express and interpret emotional evidence." 14:43

Do you agree with that statement. 14:43

A. Well, it says messages here -- research and psychology suggests that individuals differ in their ability to recognize, express and interpret emotional messages. 14:43

Q. Do you agree with that statement? 14:43

A. At that time, yes, that's what the research in psychology suggested so that individuals would differ. 14:43

Q. Do you disagree with that statement today? 14:43

A. No, I don't. 14:43

Q. And on Page 68, you state at the bottom of the first column, "this reinforces the notion that emotional response to a commercial is a personal response that results from interaction between the associative psychological make up of the individual viewer and specific executional elements of the 14:43 14:44 14:44 14:44 14:44

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commercial." 14:44

Do you agree with that statement? 14:44

A. Yes. I think the findings here indicated that -- well, our interpretation of the findings indicated that individuals -- that emotional response is an individual response. That doesn't mean that there aren't -- that you can't aggregate that. But each person has a totally distinct response, but that, in fact, demographic characteristics weren't good predictors of emotional response for this study -- for this sample. 14:44 14:44 14:44 14:44 14:44 14:44 14:44 14:45

Q. Have you conducted any research since March of 1993 which casts doubt on this conclusion? 14:45 14:45

A. I haven't tried to replicate this study and I haven't really, with the degree that I did in this study, where we were particularly interested in demographic characteristics, I haven't pursued that in research, short of, as I said, with the student's thesis where we did -- we were looking at male versus female. 14:45 14:45 14:45 14:45 14:45 14:45

Q. But your recollection as you sit here today is that that did not find a significant relationship between gender and response; is that right? 14:45 14:45 14:45

http://legacy.library.ucsf.edu/tid/xsr07e00/pdf Digitized by the Tobacco Documents Library at UCSF http://tobacco.ucsf.edu

A. I keep thinking -- I'm doubting my -- what I'm telling you without looking at it, actually. 14:4

Q. And again on Page 68, in the middle of the paragraph on the left-hand side you write, "The findings of this study emphasize the complexity of emotional response and suggest that relatively broad categories of demographic characteristics like age, sex and brand usage only begin to scratch the surface of the intricate nature of individual's emotional response to advertising." 14:4

Do you agree with that conclusion? 14:4

A. I would say that that's true for this study, which again is soft drinks. So if there is a limitation to this study, then it looks at a single category. 14:4

Q. Do you have a reason to believe that that is not an appropriate conclusion for other product categories? 14:4

A. Well, I haven't tested other product categories. 14:4

Q. Do you have any reason to believe that your conclusion would be different if you did? 14:4

A. It might be. 14:4

Q. Do you have a suspicion that it would be? 14:4

http://legacy.library.ucsf.edu/tid/xsr07a00/pdf Batch.www.industrydocuments.ucsf.edu/docs/fpjl0001

A. Well, I guess I still in my mind try to bring convergence with some of the research in psychology which tends to find stronger differences than we have been able to elicit in the research in advertising heretofore, so that doesn't mean again -- it's part of what I was discussing this morning of taking a theoretical base out of another field, psychology, and trying to apply it to advertising. And -- 14:4

Q. But as you sit here today based on the research that you've conducted in this field, is it your conclusion that demographic variables are not a reliable measure of consumer response to commercial advertising? 14:4

A. Well, I don't think I could say that, no. I would say that in this study, that they were less for predicting emotional response, and it was emotional response as it was measured in this study relative to some other way because there it's not a hundred percent consensus on how you would define and measure emotional response. But there may be categories and/or situations where demographics play a very important role and are -- that there is a 14:4

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Battelle http://www.industrydocuments.ucsf.edu/docs/lpjl0001

closer relationship between the two than there happened to be for this data set.

Q. And can you identify that situation for me today?

A. I can't, because I haven't done the research on it, so ...

Q. So it may or may not exist?

A. Well, at this point in time, I am not aware of a study and I have not conducted a study.

Q. Professor Stout, would you agree with me that brand recognition is important to advertisers and manufacturers of a specific product?

A. For that specific product, you mean?

Q. That brand recognition is important to advertisers and manufacturers of a given product?

A. So if it's my brand, then brand recognition is important to me. If I'm Ozarka Water, the brand recognition is important. Is that the question?

Q. That's the question?

A. Okay. I believe that it is important, yes. It depends on the product. It depends on the situation. In some situations, if you don't have a lot of choice in your selection, the

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brand may not be -- brand recognition may not be as important, but certainly for many products where there are multiple brands in a product category and you're competing with those brands, then recognition of your brand would be important. 14:49

Q. Can you identify for me a product category in which there is little or no competition? 14:49

A. There are fewer and fewer as we deregulate. That's for sure. So certainly probably utilities is a good one right now. And it's probably not even all markets in the country are still monopolies in that sense. There is more competition in some product categories than others, and so there is -- there is less -- you're trying to come up with a set, what is the top three brands, or whatever that someone would name if you asked them toothpaste. And as the brand proliferate, obviously then it becomes a harder task to do that. 14:49 14:50 14:50

Q. In the product categories where brands proliferate, do you see more or less advertising than in a product category where brands do not proliferate? 14:50 14:50

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A. Well, I would think, and without -- relative to how advertising might work, we're not talking about a specific brand or product category here, but the -- I think, common notion would be that as the brands proliferate, if you're trying to get that information out to whomever might be purchasing those brands, that there would be a need for advertising, so ... 14:5

Q. And the information you would be trying to provide your customer is your brand -- your brand image and attributes associated with that brand; is that correct? 14:5

A. Well, to some degree, but I think also there is product category. I mean, it also enhances product category when people think of, like, toothpaste. So any advertising that's done for any of the brands also is going to enhance that product category, especially if I'm looking at some new reason why I would proliferate my brand, like tarter control. All of a sudden, tarter control becomes an attribute that people are looking for in the toothpaste category. And so you have called attention to the category. And then people 14:5

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might look for brands that feature that product attribute or that product attribute, yeah, in the category.

Q. And as you mention using the example of toothpaste, an advertisement which shows that it has -- that that brand has some agent, some tarter control agent, that also provides information to the consumer that that agent is available; is that correct?

A. Right.

Q. And that that brand has that agent and perhaps others do not?

A. In that particular example, it would, yes.

Q. And so within that product category, the message being sent is we have this agent, our brand has it, this other brand does not have it, buy our brand; is that correct?

A. In a sense. You're not talking about -- I don't think you're talking about comparative advertising. You're assuming that the individual goes through the process making the assumption that this is something I should be looking for now. This brand has it. Do other brands have it? Clearly, if I don't buy that brand, I might look to my brand -- my favorite

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brand to see if, in fact, it also has that attribute now or not. So toothpaste, it's highly unlikely we drop out of the category, probably if we couldn't get that, but we would still brush our teeth, I hope. 14:52

Q. Well, do you think Crest advertises to get people to brush more frequently? 14:52

A. That would be one way for them to sell more toothpaste, if they use more toothpaste every day. If I brush my teeth three times a day like I think we're supposed to, if I did it four or five times a day, then I'd use up the tube faster, so I should be able to sell more as Crest. 14:53

Q. But do you think that is what advertising -- do you think that is what Crest is doing when they advertise for toothpaste; do you think they're getting people to brush more frequently? 14:53

A. That's one way to increase their market share certainly; to sell more. So I don't know specifically what the marketing objectives for Crest toothpaste are, but I would speculate that that would be a way to be able to increase use of the brand. 14:53

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Q. It would be a way, but do you think advertising would be successful in achieving that goal? 14:5

A. Well, it's hard to say exactly how -- whether advertising would be totally responsible for that particular objective. Clearly there are a lot of other issues relative to toothpaste and purchase. 14:5

Q. What other issues? 14:5

A. Certainly it's used in the home as an individual -- mom buys the toothpaste, usually, although obviously it's targeted now to children relative to the way that the packaging is, so you have colorful pumps and the like. So -- but again, these notices of like what the selection is that you could choose from, what some of the -- what I'm calling sort of socioenvironmental kinds of situations are. Price might have an impact, if whatever this new attribute is, is featured at a much higher price for that particular tube. 14:5

Q. Even if advertisers for Crest want to influence people to brush more frequently, do you think that advertising for Crest is 14:5

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powerful enough to effect this sort of change in human behavior? 14:54

A. I don't know if advertising alone would be powerful enough, but most messages that we receive, certainly about brushing our teeth don't come from the advertising alone. So we would be getting information from other sources, as well. 14:54 14:55

Q. Manufacturers spend a great deal of money to create brand recognition, do they not, Professor Stout? 14:55

A. I believe they do, yes. 14:55

Q. And manufacturers spend a good deal of money to foster brand loyalty, do they not? 14:55

A. I believe they do, yes. 14:55

Q. As a matter of fact, looking back at your Journal of Advertising study, published in March of 1993, on Page 67, you found that the only significant predictors of emotional response were brand reinforcement -- 14:55

A. I'm sorry? Where are you? 14:55

Q. I'm on Page 67? 14:55

A. At? 14:55

Q. In the left-hand column. 14:55

A. Brand reinforcement however had -- 14:55

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Q. In that article you found that the only two significant predictors of emotional response were brand reinforcement and familiarity. Is that correct? 14:5
A. Are you in the second full paragraph? 14:5
Q. I am. 14:5
A. Second and third full. 14:5
So brand reinforcement, however, had significant predictors, equation included both sets of predictors as preferred so that sex and emotional response was predictor in brand reinforcement for -- 14:5
Q. But brand reinforcement and familiarity were your significant predictors of emotional response; is that correct? 14:5
A. That's -- yes. That's true here. 14:5
Q. How would you advise your students in class to go about developing a brand of a product? 14:5
A. Developing a brand? 14:5
Q. Develop brand recognition of a product. Say for example, you gave your students a fictitious brand of toothpaste. How would you instruct or advise your students to go about brand recognition for that brand? 14:5
A. Well, it would depend on what the product was 14:5

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and who the target group was because different groups would respond differently to different types of messages, perhaps, but I would want them to do research on that. 14:5

Q. Well, as I mentioned, let's take the example of toothpaste. 14:5

A. Okay.

Q. How would you advise your students to develop brand recognition for their new brand of toothpaste? 14:5

A. Well, first of all, they would do a competitive -- a situation analysis where they would look at the competitive environment. So what are the competing brands. They do a consumer analysis to see who is using the brands. They also look at the product. Are there real definable different attributes about the products, and how they are presented based on the size of the package, the cost, et cetera? And then also looking at competitive messages to see how other brands advertise their brands. And based on that, then, they would interpret those data that they had collected from both primary and secondary sources, but there are secondary sources to 14:5

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give information on some of these pieces of information. And then ask them to interpret that and then to come up with some sort of positioning statement, and then strategy for the brand.

Q. Would you expect them to study their potential market?

A. I would be looking -- they would be instructed to look at users and non-users to see where the potential is. So, is there an untapped source out there. So they would be looking at the current users, but there is also potential users and who are those people. Baking soda is a good example. It used to be just for people who bake, but you put it in your kitty litter box, or if you put it in your freezer or refrigerator to absorb odors, you've expanded into a group of potential users that with some overlap certainly are quite different from people who used a quarter of a teaspoon to bake something from scratch.

Q. Once your students have create brand recognition for their new brand of toothpaste, how would you advise your students to develop an enhanced brand loyalty for their brand of

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toothpaste?

A. Okay. Well, first, I think there is recognition. And so they would be looking at media use habits by the target group, and then they would be designing their advertising and really their integrated marketing communications plan. They would not be -- in a course that I would teach, they would not be limited to just advertising alone. There would be other aspects of communication that would be part and parcel of their plan.

Q. What aspects of communication would you suggest that they employ to create brand recognition?

A. Well, they have a number of things to choose from. So, obviously advertising, promotion, publicity. So part of the -- any of the promotion -- so forms of communication. They could be doing database marketing, personal sales. There may be multiple ways. And I would ask them, then, to have made some sort of an interpretation based on the information they learned by doing their assessment as to which of these ways they think might prove to be most effective.

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Q. Would you encourage them to use more than one avenue to publicize their product in an effort to enhance brand recognition?

A. It would depend on the specific situation, but I think certainly as a teaching -- in a teaching situation, I certainly would encourage them to look at all the aspects so that they have a sense of how they can -- how they can deliver the message most effectively.

Q. Well, do you think that messages are more effectively transmitted when they use more than one medium of communication?

A. Well, again, it depends, and it depends on the product and the situation and the target; but we use the direct response as an example where, if I can reach my target group that way, then I may not need to use other media, as well. But certainly people tend to be -- people tend to be exposed to different types of messages. And so some combination, not only for actually reaching the person, but for the kinds of objectives that you might have might create synergy, then, that would allow you to maximize on your budget.

Q. Well, for example, in the toothpaste example

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that I've been using, would you suggest that your students use multiple channels of communication to communicate with their customers and develop brand recognition for their new brand of toothpaste?

A. I would suggest that they look at that based on the analysis that they've done up front -- the situation analysis. And there are secondary sources that will tell you, people in demographic groups where they're heavy users of what media. So heavy users of soup or toothpaste then also happen to be heavy users of magazines or television or radio. And as a result of that, then you would want to build some kind of a mix that would be likely to reach the individuals that you're targeting. But there is some secondary research available that people can use to learn that information to begin to make those kinds of decisions.

Q. And you mentioned the word targeting. Would you suggest to your students that they target certain markets to enhance brand recognition to sell their toothpaste?

A. Well, depending on the objective of the

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advertiser and I think that sometimes advertisers might have different objectives based on numerous things. But certainly at some point, meaning that sales are important or the company will go out of business if it doesn't sell the product, but there may be situations where sales isn't the most important thing. That you're also trying to build brand recognition and you don't expect people are going to buy it right now. Baby diapers. You want people to know that Pampers and whatever the competing brand are, which I couldn't name for you, aren't in the evoked set. But -- so at the time when they come into the point where they need diapers that they would be likely to recognize, okay, which one do I go get. So I think like I say, there are multiple -- there are multiple kinds of objectives for communications. Obviously an advertiser has to be making sales or the advertiser won't be in business -- the brand won't be in business very long. But as well, I would assume, that the marketing plan will dictate certain objectives. That our objective at this point in time -- you usually

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have a year's plan, you have a longer term plan, but you have a year's plan. If you're introducing a new product, you might have a three-year roll out, where you're assuming at some point you will reach some objectives, but you don't expect your sales will be overwhelming the first year, because people are unaware of your product or service is. It certainly would be the case with new -- take VCRs, or if we take video cameras or computers relative to -- you have to have some sales, but you also need people to be aware of that product category so that -- and you don't expect that you'll be in the black the first year.

Q. And, Professor Stout, enhancing brand recognition, wouldn't necessarily increase sales; is that correct?

A. Well, it has the potential to increase sales, yes.

Q. So when your students are striving to increase brand recognition of their brand of toothpaste, how would you instruct them to use targeting to do that?

A. Well, they would be -- I'm not quite sure what

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Exhibit 2 http://www.industrydocuments.ucsf.edu/docs/lpjl0001

you mean by the question. I mean, they are targeting specific groups. 15:0

Q. What groups would they be targeting? 15:0

A. Well, there could be numerous things. I could target on demographics based on -- let's say it's tarter control or let's say it's something like gingivitis, so that may be older consumers may be more concerned about that. So I would be selling that particular brand in the stable of brands, the brands that -- the product that actually features that particular attribute, that may be targeted to older people because they're more concerned about that than a six year old child might be. Okay. 15:0

Fluoride would be good -- kids and fluoride tends to be -- so there are certain kinds of -- that's part of the positioning. Some of the brands have them. Some of them don't have fluoride, have fight gingivitis, fight tarter control. Usually pretty soon after Brand A has it, Brand B and Brand C have it as well. 15:0

So they would be looking at different groups that they needed to make the 15:0

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sales, and they would target them accordingly. So in my example of gingivitis, let's say, I would not be picking Saturday morning television to reach that target group. I would be picking times of day, media vehicles, promotions, as well, that that group might be likely to use.

Q. So targeting is one of the means that advertisers use to enhance brand recognition; is that correct?

A. Well, advertisers target because it would -- it's costly and a waste to try to spend your money reaching people outside of the people that you think eventually are going to bring you some sales. So why would you want to target -- I mean, we would call it waste or spillage because your message is going to people that you don't intend -- you don't expect that they're going to buy the brand. You're expecting your sales are going to come from 35-plus for this brand of toothpaste that fights gingivitis, because younger people, that's just not an issue for them. And so a part of your campaign and brand recognition could obviously stress how important it is to

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fight gingivitis, hoping that the 18 to 24 years old will not want to have that, so they'll buy this now and fight it. But like I said, eventually you still need to support your brand with some sales. 15:0

Q. Would it be irresponsible from a financial standpoint for an advertiser not to target in an effort to enhance brand recognition, if it's so wasteful to do so? 15:0

A. I think it is a waste of finite resources to have your message reaching people who are outside of your target, unless you have some -- like I say, unless there is a -- well, they would be in your target if you had a reason for reaching them. 15:0

Q. Professor Stout, how would you advise your students to prevent brand switching from a competitor's brand of toothpaste? 15:0

A. Well, it would depend on why people might switch. Again, if we're looking at toothpaste as an example, certainly there are -- one way is to have the -- is to use advertising to help create -- call it -- it gives it panache; it gives it cachet because your brand -- because people know about your brand because a 15:0

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lot of money is spent on advertising, assuming that that shared voice, that noise that is purchased with a high advertising budget, in fact, is well positioned and it's a creative appeal. I mean, you're looking at not only the media -- the product has to be good, the price has to be right, you have to select the right media, the message has to be creative and appropriate. So there are a number of factors. But --

Q. But one of the ways to prevent brand switching would be to create the strongest brand you possibly could; isn't that correct?

A. That's correct, and it would depend on why people switch. If they switch for price, you may need to compete on price. Then you may want to advertise that price or you may want to go through your retailers to use the price. So in a case where the retailer is going to be able to have some flexibility on what price they're going to sell it at, then advertising many consumer goods, as you know, are not advertised on price. So we don't have the price in the corner there of how much the tube of toothpaste is going to cost.

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Q. So for example, to take the example of Coke versus Pepsi, my personal experience is people either drink Pepsi or they drink Coke. Which do you prefer? 15:0

A. I don't drink soft drinks, so 15:0

Q. Do you have any kids? 15:0

A. No, I don't. Sorry. 15:0

Q. My experience is that people either drink one or the other. Is that consistent -- 15:0

A. That is what I would believe from people that I know. So I think that people have a preference that they do have a preference based on -- I don't know what, because I don't drink soft drinks, but I would assume on taste, for that purpose. That they taste different. But I'm not in the product category, so ... 15:0

Q. Do you know what the average annual advertising expenditures for Coke and Pepsi are? 15:1

A. I don't know those numbers offhand, no. 15:1

Q. Would you imagine that they're very, very large? 15:1

A. I imagine that they are large, yes; that they do spend a great deal of money on advertising. 15:1

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Q. Yet there are very few people who switch from Coke to Pepsi or Pepsi to Coke? 15:1

A. Well, but there are always new users in the market and you're also -- I think sometimes there has been and I can't remember -- I think it was a beer study that was done many years ago, maybe by Anheiser Bush, where the question was, what would happen if you stopped advertising all together, what impact would that have? And so I think that there is some -- and it's purely speculation on my part because I haven't done a survey of all the advertising agencies or am not privy to this, but clearly I think there is a fear that if you stop spending money what will happen, and so unless there is some reason you're forced to stop spending the money on the promotion because you don't have the money any more, that people continue -- advertising budgets continue to ... 15:1

Q. Professor Stout, do you think Coca-Cola spends all of the money it spends every year to attract new users to Coke or do you think it spends the money that it spends every year to keep the people who are drinking Coke, 15:1

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drinking Coke? 15:1
A. Well, I think probably both, and it doesn't just spend money on advertising. It does a lot of promotion. There is the Pepsi Challenge. So there has been a lot of free publicity just around the package; whether or not the can now is going to be curved or the shape of the bottle, et cetera. So money -- anything that gets covered in the press is in the advertising age, is really free publicity for the brand, but certainly they're looking at those kinds of changes, as well. And that gives them something new to talk about in their advertising, and it creates something novel, something new about that particular brand, so --
Q. Do you think Coke has been successful in creating strong brand recognition?
A. I would think so. Certainly it's very popular not only within the United States but abroad. But my understanding is from some figures I've seen at some point, that their growth in the U.S. was tapering off and, hence, that's why for many of the fast food outlets, and some of the softdrinks, that there is the intense

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interest now in global expansion because of the lack of stellar growth in the U.S.

Q. If growth of the market for Coca-Cola was tapering off in the United States, and yet Coca-Cola still spends a great deal of money on advertising, would that lead you to believe they're spending that money to enhance brand recognition and prevent switching to Pepsi?

A. Well, to Pepsi or outside of the product category. People like myself and yourself right here drink bottled water a great deal. There have been a lot of changes in that beverage category; might be more juices, more healthy and less sugar. Waters are, waters are prolific now. Different brands. So depending on how we define the product category, if cola is the category, then certainly there are switches to other beverages that might be outside of the soft drink category altogether, like bottled water, so --

Q. But would you agree with me that Coca-Cola continues to spend money on advertising to keep people drinking Coke and not drinking Pepsi or leaving the product category

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altogether? 15:1
A. I would think those are valid reasons for why they would spend their advertising dollar. 15:1
Q. And by leaving the product category, I mean drinking some other type of beverage? 15:1
A. Correct. I think among other possibilities, certainly that those are reasons why you would spend your money, although I haven't been privy to their marketing plans. 15:1
Q. Professor Stout, are you familiar with the concept of primary demand for consumer products? 15:1
A. I'm familiar with it, yes. 15:1
Q. Do you believe that advertising can create primary demand for consumer products? 15:1
A. That advertising can? I think there would be situations where it might, yes. 15:1
Q. Can you give me one? 15:1
A. Well, certainly with new products, for example, if you have a new product introduction and depending on the product, certainly I could use things other than advertising, like sampling if I was introducing some new product. 15:1
Q. For example, a laptop computer. Advertising 15:1

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might create primary demand for a laptop computer because prior to seeing that advertisement you did not know that laptop computers existed? 15:1

A. Right. 15:1

Q. Is that the example that you're --

A. That, and I'm trying to think of something that would be more of a consumer product that you could do door hangers or the like. Certainly -- typically, those are extensions, like the dish washing detergent is lemon flavored now or lemon scented instead of some other scent, and so you give -- so that's not a good example, because the product category already exists, but certainly we've seen it a lot in the technology area. 15:1

Q. Are you referring to mature and immature product categories? 15:1

A. When I refer to what? 15:1

Q. Computers -- 15:1

A. Well, it's certainly a new product category so -- because it's something that we -- laptops would be a good example. Certainly they're extensions of desktops, but ... 15:1

Q. Do you believe advertising can create primary 15:1

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demand for product categories that are not new?

A. That it can create primary demand for categories that are not new?

I would think that there would be a possibility for that. It would depend on the product category and how many brands are in the category and what the product is relative to the behavior that is required, but ...

Q. Can you give me an example of advertising creating primary demand for a mature product category?

A. I'm not sure I can, off the top of my head, no. Unless it might be something similar to the -- like baby diapers, again. I mean -- but you have to come in -- as a person you weave in and out of some categories. Like if you have a baby you need them, and you only need them for a certain amount of time.

Q. So if I didn't have a baby, could advertising make me want to buy diapers?

A. Well, in that sense, you wouldn't buy them just to hold on to them for the time you had the baby, but clearly, it does create brand

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recognition. So at the time that you need them, then you have a sense -- you have some sense of like what brands are that you could pick from.

Q. But advertising can't make people buy things they don't want, can it?

A. Well, that's a big discussion in social effects in advertising; whether or not advertising, in fact, can make people buy things that they don't want.

Q. Let's take the example of diapers. I have no children. I'm not planning on having children. Can the best advertisement anyone can put together make me buy diapers for a baby I don't have?

A. Probably not, unless I was using it in some other way. Hypothetically, I'm going to give them away or as a gift, or if there were some sort of couponing, if I bought 10 I got something that I really wanted -- a little night light that I wanted for my niece in Poughkeepsie, or something. And then you would give them away. But it's less likely that advertising would be stimulating primary demand by itself. That doesn't saying that in

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combination with other factors. 15:18
THE VIDEOGRAPHER: Counsel, we 15:18
need to change the tapes. 15:18
MS. TYLER: Let's change the 15:18
tapes. 15:18
(Whereupon, a brief recess was 15:18
taken). 15:18
THE VIDEOGRAPHER: This is Tape 3. 15:30
We're back on the record at 3:31 p.m. 15:30
BY MS. TYLER: 15:30
Q. Professor Stout, we're back on the record. 15:30
Are you ready to proceed? 15:30
A. I am, yes. 15:30
Q. Professor Stout, before the break, we were 15:30
talking about whether or not advertising could 15:30
create primary demand for mature product 15:30
categories. I was discussing with you the 15:30
hypothetical of baby diapers. And you 15:30
mentioned that you might buy baby diapers, 15:30
even though you did not need baby diapers in 15:30
order to get a night light, I think you 15:30
mentioned. 15:31
A. Right. 15:31
Q. Would it not be easier to simply go out and 15:31
buy a night light than it would to say, buy 15:31

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the three or four or ten cartons of baby diapers that you would need to buy to get that night light? 15:3

A. Well, in my hypothetical example, which may not be the best example, but certainly if that's the only way you could get the night light, meaning that it's designed to be available through the promotion and that's the only way you could get it. You couldn't buy it and you happened to want that one, for example. 15:3

Q. So in your example, this is a very unique night light? 15:3

A. Well, this one could be or it could be something like a Cousy Copper, Ginny hat or something that has a brand name and the only way you can -- it's not available in the stores, so it only way you could get it would be to buy something to get the hat. So you've got to buy whatever. Coke wouldn't be a good example because they license their logo all over the place, so ... But it's possible. 15:3

Q. Presumably that's a pretty expensive way to get a hat; isn't that correct? 15:3

A. It could be, yes. 15:3

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Q. And a rather difficult process in order to get a hat; isn't that correct? 15:32
A. It could be, but it would depend on how much you wanted the hat. I suppose, if that was the only way you could get it, I could see that people would do it. 15:32
Q. And it would have to be a pretty special hat? 15:32
A. And it could be a special hat, right. 15:32
Q. And once you had this hat, Professor Stout, what would you do with all the diapers you didn't need that you had received and paid for in order to get this hat? 15:32
A. Well, it's hard to know what -- someone may be able to give them away. They may have someone they know that can use them. They may just throw them out, it's ... 15:32
Q. But you wouldn't use them yourself? 15:32
A. Well -- 15:32
Q. If you don't have a baby? 15:32
A. That's true, yeah, if you don't have a baby. Unless you had some other way to use them, but I couldn't imagine what that is. 15:32
Q. Dusting? 15:33
A. Yeah. 15:33
Q. Do you have a cat? 15:33

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A. I do. 15:33
Q. Do you have a dog? 15:33
A. I don't. 15:33
Q. Have you ever bought dog food because of an advertisement that you saw? 15:33
A. I probably have, but for teaching reasons, not to feed to the cat or to eat myself. 15:33
Q. That's comforting to know. If you saw an advertisement for dog food that you thought was particularly creative, could that advertisement make you go out and buy dog food when you don't have a dog? 15:33
A. Less likely when I don't have a dog, but if I were to get a dog, then that would likely be a brand that I would buy because I would have some recognition of that particular brand. So if I were to come to a point where I was going to move into the category because I had a dog, or in that -- for your example, then certainly I would have some knowledge about what to buy the first time based on things that I had seen prior to being in the category. 15:34
Q. So once you have a dog, and the need has therefore been created for dog food, that particularly creative advertisement would 15:34

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enhance your recognition of that brand and would encourage you to buy that brand; is that correct? 15:3

A. That's true. If I was moving into that product category, which would be the dog food product category, then I would have some basis upon which to make a decision about brands for the dog. 15:3

Q. Would a particularly creative advertisement for dog food make you buy a dog? 15:3

A. It's probably less likely, although sometimes you see -- I see those ads for the cat food and you kind of want to get another cat. So it's unlikely that that would happen. 15:3

Q. Have you ever bought a cat because of an advertisement for cat food? 15:3

A. I don't buy cats. I adopt them from the pound, so ... I might see some message that would make me particularly open to the fact that I should adopt another cat because of some message that was in an ad. Certainly some of the cat foods now look at having pets for older people and some of the campaigns that they do, so ... 15:3

Q. If you saw a particularly creative 15:3

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advertisement for dog food, could that advertisement make you go out and buy a dog so that you could feed them that dog food?

A. Well, probably in that situation, it might not, but I could see that there would be some situations -- because buying a dog is really high involvement. It's not the same as buying a candy bar, or that I would go and start drinking soft drinks, for example. I mean, it's -- it's a many-year commitment to the dog. So that may not be the best example, but I could see that there could be situations where you might initiate a behavior based on messages that you've seen.

Q. Buying a dog is high involvement in what sense?

A. Well, because it's very -- it's a complex issue. Complex in the sense that you've got -- the dog is going to live for years. It's expensive. If it gets sick, especially, that you've got to get it its shots. You have got to get it registered. You have to find a place for it. Do you have time for the dog? It changes your lifestyle. You can't leave town for four days and not have a dog sitter.

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So there are multiple -- it's much different than if I were, as I say, move into the soft drink category because all of a sudden I just saw the new Pepsi campaign or something, made me think, well, wow, maybe that does really taste good. I'm going to try a Pepsi.

Q. So having a dog has benefits; correct?

A. Well, it has benefits and it has negative -- it has benefits and it has costs.

Q. And prior to buying a dog, people weigh those benefits and costs and make a decision based on all that information?

A. One would assume. I think some people would more than others, obviously. Children get pets at Easter and the like and I don't know if people weigh certainly the costs at that point in time. They get a little duck or chick for Easter and usually --

Q. Then the duck or the chick dies?

A. Or you give it away soon after because you haven't done a proper revaluation. I think some of the messages of animal groups, certainly around the holidays, try to caution people just that thing. Make sure your 101 -- or 1001 Dalmatians -- 101 Dalmatians, there

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were news items about that at that time because everybody wanted a little Dalmatian. They were getting dogs because they had seen the dogs in the movie. And those are not good dogs. They're high strung, et cetera, et cetera. They may not be the best dog even if you intended to get a dog with a lot of forethought, so ...

Q. Professor Stout, is toothpaste a mature product category?

A. Well, it certainly is a category that has been around a while. It's certainly been around longer than computers. And the brands -- some of the top brands, at least, are very well established, although there certainly are new brands that come into the market. But they're usually based on some attribute relative to the product.

Q. And when a toothpaste advertises a new aspect, a new innovation, be it tarter control, fluoride, stripes, sparkles, all of those items, does that transform toothpaste into an immature product category, or does toothpaste remain a product -- a mature product category?

A. Well, clearly, you've got line extensions, and

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so there is innovation for that particular attribute. The product category, I think, would still be -- it certainly -- if you look at historically how long it has been in existence, that would give you some benchmark against how old is it. Obviously, it is dynamic in the sense that it introduces new attributes, usually brand extensions, to some degree. And it's also dynamic in that new individuals move into the market because they're at a point where they actually do the purchase. So as we've said earlier, the six year olds may make recommendations to mom about what to buy, but at a point, individuals will be buying their own toothpaste. So it's -- I think part of it has to do with -- well --

Q. You mentioned line extensions. Do line extensions transform a mature product category into an immature product category?

A. Well, I think that -- I don't know that that would necessarily would be the case, but it certainly has some impact on the novelty, the newness, the uniqueness of some of the brands that are available -- in that -- some of the

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subbrands, I guess they are, that are available in that brand. So Crest, obviously, Crest has been -- it's an old brand, but it certainly has had a number of transfigurations. 15:4

Q. But if Crest were to come out with a new neon colored toothpaste, that wouldn't transform toothpaste from a mature product category to into an immature product category? 15:4

A. Not the category, no, but certainly that brand in that category would have. 15:4

Q. So once a mature product category always a mature product category, is that right, despite differences, line extensions, those types of things? 15:4

A. Well, parts of the product category are mature, but brands within the product category obviously are dynamic, so .... Because you had the extension. You've had -- like I say, obviously there are new brands even to individuals who have been buying toothpaste for forty years, but they -- and at some point, I mean, the product category is new to, as far as people who are going to be purchasing it, there are young people who are 15:4

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suddenly away at college and have to buy their own toothpaste now.

Q. And just to be clear, can advertising create demand for products that people don't want?

A. Well, I think there is a lot of debate on that. And I know there is a lot of debate on that.

Q. Where do you come out on that debate?

A. Well, I don't know that -- like I say, social effects of advertising isn't necessarily my area of expertise. There are other people who do research in that area and write books in that area who have much more knowledge than I do. But it certainly is one of the issues that are debated relative to advertising, and it's social effects and its value to society in general. Obviously, there are economic effects that we had discussed a little bit earlier this morning. And there are also, then, these notions about the social effect, so ...

Q. Do you have an opinion with respect to whether or not advertising can create demand for products people don't want?

A. Well, I think that advertising can have an

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influence on stimulating demand and -- I'm trying to think of an example of a product I wouldn't want. Maybe like some kind of surgery or something or I have to start taking blood pressure medicine or something, and so now I could have pharmaceutical advertising that would give me some sense of what I would ask my doctor for. Allergy medicine. I have to take allergy sprays, and I don't want that, but I have some sense of what is out there based on the advertising now that I see for that particular product, so ...

Q. Well, the advertising informs you of what is out there should you decide to buy products within that product category; is that correct?

A. Well, it's a choice, I think, that people are making -- about the product category.

Q. Once they're in the product category?

A. Well, it's a choice I would rather not make for the example that I gave you about allergy medicine, for example, but certainly advertising helps me relative to my decision-making once I'm in that product category.

Q. Advertising for insulin isn't going to make

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you buy insulin if you're not diabetic; is that correct? 15:4

A. It's unlikely that it would. 15:4

Q. You mentioned toothpaste as a mature product category. One of the things that you mentioned was how long toothpaste had been around. How long do you think toothpaste has been around? 15:4

A. I'm not exactly sure. I would say it's been around quite a long time. Certainly since the turn of the century and probably beforehand. 15:4

Q. I hate to think about what people brushed their teeth with before there was toothpaste, but I would agree with you probably since around the turn of the century. 15:4

Do you consider cigarettes a mature product category? 15:4

A. Well, it depends, again. Certainly it's a product category that has a long history, and so by that definition, certainly it is mature in that sense; chronologically, it's existed quite a long time. Clearly, there are also innovations or extensions in that category -- that product category, as well, among brands, so 15:4

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Q. Well, as we mentioned before, those innovations don't make a mature product category into an immature product category, is that correct? 15:45

A. Well, it certainly leaves for dynamics and flow, so ... 15:45

Q. Within the product category? 15:45

A. Within the product category, correct. I mean, you could, if you're looking at how combine a marketing mix, for example, or a communication mission for a mature product category, you might be looking different depending on where the brand is. A new brand comes out and you're going to communicate or market that as a new brand, even though it's within a mature product category. 15:45

Q. Professor Stout, do you consider yourself an expert in consumer behavior? 15:45

A. Well, I've done -- I taught a consumer behavior class, and I have -- I read papers in the area. I go to the conferences in consumer behavior. So I do, with my education, background and work as I've just mentioned, do consider myself to be an expert in that area. 15:45 15:46 15:46 15:46

Q. What textbook do you use when you're teaching 15:46

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consumer behavior? 15:4
A. I don't use a textbook. I put together a 15:4
readings packet for the students. 15:4
Q. Are the readings in those packets from 15:4
textbooks on consumer behavior or are they 15:4
from some place else? 15:4
A. For the most part they're journal articles and 15:4
it's a graduate level class, so I may use a 15:4
couple of chapters from a book if it 15:4
synthesizes something particularly with 15:4
parsimony so that -- and the students need 15:4
that rather than I have to assign them seven 15:4
articles to read to come to the same 15:4
conclusions. Sometimes I try to be kind to 15:4
the students, but not very often. 15:4
But I do tend to select the 15:4
readings -- a number of those readings come 15:4
from the Journal of Consumer Research, and 15:4
then the Journal of Advertising, and some of 15:4
the psych journals, other journals, depending 15:4
on what the unit is for that particular part 15:4
of the course. 15:4
Q. Are there any consumer behavior textbooks that 15:4
you consider authoritative? 15:4
A. Well, authoritative again, what constitutes 15:4

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authoritative. There are several consumer behavior books available, certainly. One of my co-authors on the intro text has -- Mike Solomon has a consumer behavior textbook.

Q. Do you like that textbook?

A. Well, that textbook has things to recommend it in that it is -- textbooks are -- it's hard to say relative to authoritative because textbooks are different, and they're purposefully different because you're trying to market them in some way. So each textbook has to have some sales point that previous texts don't have, so it can be distinguished in the marketplace of textbooks. And so when Solomon's book came out, it was a different perspective on consumer behavior and a different style with that book than other textbooks had been. But it is only one of many textbooks on consumer behavior.

Q. Do you agree with the conclusions that Solomon reaches in his textbook?

A. Well, I'm sure I wouldn't agree with all of his conclusions because it's probably a 400 or 500 page book, so ...

Q. Can you define consumer behavior for me?

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A. Well, consumer behavior usually looks at the process whereby people both make planning for purchase, purchase, and then post-purchase decisions. And so it is, as well it's been -- the definition has shifted over the last couple of years because -- or maybe even last few years because there has been more of a qualitative approach. It's been opening up to less restriction on purchase, per se, and more on consumption. So I can be -- I consume movies, you know, without actually purchasing movies. It has to do with the nature -- it's not -- let me just simplify. It's not just related to the purchase. So consuming is important, as well.

Q. Professor Stout, do you think the consumer decision-making is an extremely complex process?

A. Well, I would say that it is, as you had suggested earlier with emotion, it is -- I don't know that there is total consensus on how people make decisions. Clearly, there are numerous factors involved relative to the individual, the product category, the involvement of the decision itself, and so

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forth.
Q. So consumer decisions are influenced by many factors?
A. I would say they are, yes.
Q. And consumer decision-making is extremely complex?
A. I would say that there would be a consensus that it is complex, yes.
Q. And individual factors which influence consumer decisions are individual factors; they are the things that make each one of us unique as individuals; is that correct?
A. Well, those are included in there, but clearly, unless, again, if we talk about things like demographics and the like, clearly people may make decision -- certainly there are decisions that are made on the basis of sex. For example, women will buy some products that men won't buy and vice versa, so, there is, if that is a generality, meaning that -- well, obviously we're all unique individuals one to one, but there are -- we can predict certain kinds of behaviors based on sex for some products.
Q. Certainly from a biological standpoint we can

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differentiate that some products are targeted at women and others are not because --

A. Certainly. Certainly there are.

Q. Because one gender would not use the other. But apart from that, would you agree with me that the consumer decisions are influenced by different factors and many of those are individual factors; factors unique to individuals?

A. I would agree to that, but not at the -- not without looking, again, as I just said with example at some things, like demographics, and the like. So there are psychological factors. There are demographic factors.

Q. What are some of the psychological factors?

A. Well, people make decisions based on needs, for example. Some of these social -- socioenvironmental kinds of things we've been talking about all throughout. So relative to the -- your background. Obviously we talked about things like need for cognition, your preferences for visual/verbal processing.

Q. Your education level?

A. That would be, as well, yes. I'd sort of look at that as a demographic, though. Like your

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sex, age -- 15:52
Q. Your lifestyle? 15:52
A. Education, income, lifestyle, yeah. Lifestyle would start to move more over into the psychological -- psychographic kinds of -- 15:52
Q. Personal experience? 15:52
A. Definitely. 15:52
Q. Culture? 15:52
A. Culture would be important. Ethnic backgrounds or groups. 15:52
Q. I think we mentioned religion earlier. Would that be one? 15:52
A. You had mentioned that, yes. 15:52
Q. Can you think of any others? 15:52
A. Well, culture is relative to international or subcultures. So there are subcultures that may be lifestyle-related. It's a blurry area, but certainly international, if I'm looking at Asian or Korean consumers versus British consumer or U.S. consumers. 15:52
Q. Self-esteem? 15:53
A. That would be a psychological factor that could input. 15:53
Q. Whether someone has a sense of an internal locus of control or an external locus of 15:53

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control, would that also be a factor that would influence consumer decision making? 15:5

A. That could have an input, yes. 15:5

Q. Can you think of any others? 15:5

A. Well, I'm thinking there is some research that is relatively new in the emotion area that looks at affect intensity. So again, it's an intensity, an individual difference where people have more of a proclivity to react, to respond emotionally than some others do. So it becomes -- it's -- obviously personality traits are in there, as well. But this isn't quite that, but along that line. So several things. 15:5

Q. So according to my list, the individual factors which influence consumer decision-making that we have discussed in the last five minutes include needs, socioenvironmental factors, background, need for cognition, income, lifestyle, personal experience, culture, ethnic background, religion, self-esteem, external versus internal locus of control, and personality? 15:5

A. That's -- I'm sure a partial list. 15:5

Q. Can you think of others? 15:5

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A. Well, I'm thinking of some things -- some of the recent literature on impulse purchases or consumption, as well as addictive -- sort of the dark side of consumer behavior that's been written about recently. 15:54

Q. So whether an individual has an addictive personality versus a non-addictive personality? 15:54

A. Aspects to that that would have an impact on what they consume and how they consume what they consume, so ... 15:55

Q. Any other individual factors that you can think of that impact consumer decision-making? 15:55

A. I'm sure there are more, but ... 15:55

Q. What factors can a firm marketing a product use to attempt to influence a consumer's decision? 15:55

A. What? I'm sorry. 15:55

Q. What factors can a firm marketing a product use to attempt to influence a consumer decision? 15:55

A. Well, they have all the marketing factors at their behest, so obviously they can design the product -- anything in the 4 Ps, so they can design the product. They could price it. 15:55

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They could distribute it through certain channels. They could promote it in certain ways. And then within that promotions mix, we could look at factors like advertising, promotions, personal sales, et cetera. They also would have in their publicity or public relations that they could use, and obviously then there may be personal sales or word of mouth in some way.

Q. So you mentioned the 4 Ps. What are the 4 Ps?

A. The 4 Ps are price, product, placement, and promotion. So that's a textbook 101 marketing for a marketing mix. And so it has to do with as you're looking at developing your brand, that you are looking at the -- as I said, what is the product and how you design and create the product. Where do you place it; the channels of distribution. Is it available only through catalogs? Is it available in sort of lower scale retail outlets like Wal-Mart or can you only get it at Bloomingdales? So something about -- well, maybe the only way I can get it is the 1-800 number on television. Price, product placement. Price, then obviously I have some

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control over what the price is. So I can price it as a premium product or I can price it not as a premium product and then promotion. And we've been talking about many of those factors in that mix today.

Q. Are the 4 Ps a useful way of summarizing the tools that a firm marketing a product can use to influence or attempt to influence a consumer decision?

A. I believe so; based on we've looked at demographic variables here like income, and so price would be -- there will be a relation, perhaps, certainly one would think there would be or I can convince people they should spend money that they should spend better on something else to buy the premium brand in lieu of they can really only afford the lower priced brand. So I could use that. There would be a relationship there, I think.

Q. But the 4 Ps would be a useful way to summarize the tools that are available to a marketer to attempt to influence consumer decisions?

A. It's certainly a way when you're trying to make decisions on creating your marketing

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plan, and in development of your product even, but certainly for your marketing plan to organize the different components of a decision-making process that you're going to have to go through. And you need to be systematic in that and this gives you a method for doing that systematically. It doesn't predict one outcome or another, but it gives you some sort of template to use as you work through the decisions for the particular product or brand that you're looking at.

Q. So if those are your available tools, you want to create a plan which utilizes those tools, but utilizing those tools doesn't necessarily mean you'll be successful in selling your product; is that correct?

A. Not necessarily. I don't have the stat at my fingertips, but there are numerous, maybe thousands of new products introduced every year and half of them fail. There is some static on that. But I don't have the exact numbers, but ...,

Q. In fact -- I'm sorry?

A. I'm sorry.

Q. Go ahead.

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A. I just said new products fail.
Q. In fact, if advertising was always successful, we would all be driving Edsels; right?
A. Well, that may be.
Q. And we would all be drinking new Coke?
A. Well, clearly advertising works in different ways with different people and there is that -- one of the things relative to the 4 Ps is looking at this within the competitive environment, so you need to look at this by what is the market now, meaning even the industry, the competitive market on a smaller scale, and then the individuals who are going to be involved relative to your target, so ...
Q. But as you just mentioned, not all advertising is successful?
A. Not all products are successful, and the issue with advertising is that it is not clear, except in some situations, as I mentioned earlier this morning, with couponing or dialing the 1-800 number. It's not always clear what the impact or influences of advertising, per se, on the decision. And so as I said, if, in fact, we have couponing, so I know the person bought it, because I got the

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little coupon that they sent in, then I can make more of a cause and effect kind of relationship. 16:0

Q. But -- 16:0

A. But for most -- that is not the typical case, I think, with most products and brands. 16:0

Q. So outside of the example of a 1-800 number or couponing, it is very difficult to tie specific advertising with specific sales, is that what you're saying? 16:0

A. Well, it -- because those are instances where you have total control of what the messages are and how the person got that particular message, they are buying that particular product because they have that coupon right there and they filled it out and sent it in or they've responded, even probably the direct response is given now that we can time shift with VCRs, and the like, I can see something that somebody else recorded, or they could leave me the 1-800 number, but most likely you're likely to be exposed to the message that says for K-tell or whatever, and buy the product based on calling this number now; have your credit card ready, 19.95, plus 5.95 16:0

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shipping and handling, 16:01
Q. So when you get away from that sort of direct 16:01
marketing, individual factors intervene more, 16:01
and so it's almost impossible to connect 16:01
specific advertising with a specific sale? Is 16:01
that what you're saying? 16:01
A. There are more factors that are involved. So 16:01
advertising, as we said earlier, is usually 16:01
parts of a mix. And so based on that, then, 16:01
whether I'm trying to attribute that to 16:01
advertising, per se, or to my communications 16:01
mix, I would have a better chance at looking 16:01
at, okay, well, I've been combining my 16:01
advertising and my promotion. I've got the 16:01
person in the sales room. I've got direct 16:01
mail pieces going out, et cetera. And so in 16:01
looking at how that mix works, one's assuming 16:02
again that there is synergy there. 16:02
Q. Well, how would one tie an advertising mix to 16:02
a particular sale if it's difficult to tie a 16:02
specific advertisement to a particular sale? 16:02
A. Well, I think based on what the -- what the 16:02
combination of the mix is, you know, what the 16:02
message is that was delivered. Certainly when 16:02
promotions are involved, there's a lot more 16:02

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opportunity to be able to make a direct assumption of the influence because people actually buy something so they'll get something. 16:02

Q. But that's an assumption; is that correct? 16:02

A. Well, not always. Certainly there are instance where people do buy something so they'll get something, so that you -- I believe that with tobacco products, that there are promotions where if you buy -- if you buy the brand, if you go into the store and buy the product or the brand, then you can get something -- certainly there are catalogs. Marlborough has catalogs where you can get the gear, et cetera. So you buy and you receive, so ... 16:02 16:02 16:02 16:02 16:02 16:02 16:03 16:03 16:03 16:03 16:03

Q. How does a marketer know that a communications mix is successful in creating sales or creating a particular sale? How would one track that? 16:03 16:03 16:03 16:03

A. Well, I think it's an inexact science. Clearly you can do research to track that so you can query certainly your users or the people who have purchased, and see where they had seen the message, for example. And that 16:03 16:03 16:03 16:03 16:03

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happens -- I know that happens quite a bit, it happens quite a lot in the health care arena, so work I had done at the CDC, it's like when people call the 1-800 number, they're surveyed, where did you get the number, where did you see this, so that you get a sense of how people got the message to call that 1-800 number. Did they see it on a brochure? Did someone give it to them? Was it in a public service announcement, on television, was it in a magazine ad? Where did they get that? So certainly in doing primary research, a brand could track -- track that.

Q. Aside from that kind of survey research, is there another way to try to link a communication mix with a particular sale?

A. Well, I'm not familiar with all the secondary sources that are available. Certainly, there is testing that is done now that uses -- testing advertising, for example, like the split cable advertising and the like, where you can use scanner data -- individuals are members of some sort of a panel. They have a card into their household. A certain ad was beamed and their purchase records are -- their

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purchases are tracked. And so one can then -- one has had some control over what advertising that individual is exposed to. They've got the output of what the person actually purchased. And so one can assume that if they see this ad, they buy this, and if they see this ad, they buy that. So there are -- and I'm not familiar with all of the secondary testing service that are available.

Q. But that method wouldn't be able to test what sort of stimuli are coming in from other sources that might be influencing those consumer decisions; isn't that correct?

A. Well, that is -- what I just gave you is an example of where you're trying to isolate the advertising, per se, and relate that to some outcome that usually is tied to sales.

Q. So it sounds like that mechanism is pretty limited?

A. Well, at least in the example I'm giving you, that that can often be used to test different creative executions, so which creative execution is more likely to have an impact on behavior than another one.

Q. Are you familiar with that method being used

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in the real world?
A. It is a real world. You can -- I'm not quite sure who it is, but you can pay a lot of money and have that done for your brand and your ads any time you want.
Q. As opposed to -- I'm talking about as opposed to testing creative methods. I'm talking about testing ads once they have been executed and they're in the marketplace?
A. Well, in the example I'm giving you, they would be in the marketplace. I would have controlled -- which households got exposed to which ad and so those would be -- they have to be finished ads because they have to look like the real ads because they're coming across your television, so they're finished in that way, but you may go into a certain test market and run -- you could do different advertising campaigns in different markets, one in Austin and one in Dallas, or one in Dallas and one in Tulsa, and try to assess the same kind of impact.
Q. Did you use either of the methods you've just described to prepare your opinions in this case?

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A. Either of these testing methods? Would you excuse me a minute? Have I ever used them or did I use them for preparation today?

Q. Have you used them and did they assist you in preparing your opinions that you will offer in this case?

A. I have not personally used those methods in work that I have done, but they are, as I said, they're -- you can -- there are companies that do that, and you can get your advertising tested that way. And so I've not personally used that. Like I say, I'm familiar with this because it's part of what I know and what I teach for how to test advertising. So as far as being prepared today, it's -- I wasn't referring to anything specific.

Q. So in terms of your opinion that you will provide in this case, you are not specifically relying on any of those testing methods to support those opinions; is that correct?

A. I have not seen any data from those kinds of tests at this point in time, no.

Q. Okay.

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A. I guess I can't say what I will be reviewing in the future, but ... 16:0
Q. Professor Stout, are you an expert in communication? 16:0
A. Well, communication is a broad field. So I would say I'm an expert in communication but I would qualify that, so .... There is mass communication. There is interpersonal communication. There are a number of -- we have a Department of Communication Science and Disorders in our college where people do speech pathology and audiology. And I certainly would not be an expert in that field. So it's a broad field. 16:0
Q. What subspecialty of communications do you consider yourself an expert in? 16:0
A. Well, advertising, obviously, and I'm sure marketers wouldn't like me to even think of that, but I think of marketing as a form of communication, so a business school person wouldn't appreciate that, though. 16:0
Q. You are not an expert in interpersonal communication; is that correct? 16:0
A. I would not consider myself an expert in interpersonal, no. 16:0

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Q. Are you -- 16:0
A. Probably -- I'm sorry. 16:0
Q. Are you an expert in mass communication? 16:0
A. I would say that I would be, based on the nature of my work in advertising. 16:0
Q. Are you an expert in organizational communication? 16:0
A. I would not say I am; although I am working more in that area now. 16:0
Q. In what way are you working more in that area? 16:0
A. Well, I've been asked to propose -- write proposals for some grants that focus more on organizational communication than they do on mass communication, so ... 16:0
Q. Do you teach communication? 16:10
A. Well, advertising is in the College of Communication, so ... 16:10
Q. You don't teach straight communication; is that correct? 16:10
A. I'm not quite sure what straight communication would be. There are sort of -- probably intro to communication courses that then would talk about all of the subsets that we've talked about here. So what is an overview of communication, a history of communication, 16:10

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advertising is part of communication, organizational com is, interpersonal is, et cetera. So something that would look along that line, but I don't personally teach a course in that. But I could see that there would be an intro level course of that nature. 16:1

Q. When you teach, Professor Stout, do you employ any models as a teaching tool? 16:1

A. Employ any models; like people as models, or -- 16:1

Q. I'm not referring to Elle McPherson at the moment. I meant graphic types of models? 16:1

A. Well, I certainly present information in graphic ways. I mean, I will use visual charts and the like in my teaching. 16:1

Q. Are you familiar with the communication model known as source channel message receiver feedback. 16:1

A. Yes, I would be. That's a basic communications model. 16:1

Q. And do agree that that is a good model that accurately represents communication? 16:1

A. Well, it certainly -- it is a model. It is a simplified model, I would say, that it looks at, obviously, what sources can be expanded 16:1

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upon almost in an unlimited way, so it does account for, with the source, the message, the channel, and the receiver, it does certainly account for the major components of the communication process, and then that there would be feedback into that, would also be important. 16:1

Q. Is it a useful model? 16:1

A. Well, I think it's useful in some ways. It certainly is useful in understanding the major components. If I were teaching an intro class, for example, I might use that as a model, then as a template to be able to explain as I taught the students the differences in the different components or categories of communication that we just talked about. Advertising, organizational communication, interpersonal communication, et cetera, so the source in advertising and the source in interpersonal communication would be different, but I could use that thing, there is a source. Who is the source in advertising? Who is the source in interpersonal communication? So I could use that model in that way. 16:1

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Q. Have you used that model in teaching? 16:11
A. I probably have in an introductory class and having taught principles of advertising. 16:11
Q. Professor Stout, as a general rule, which sources are more persuasive; interpersonal sources of communication or the mass media? 16:11
A. Well, I think it depends on what the message is you're trying to convey, and what the product or decision is that you're trying to influence, and the individual. So under certain circumstances, one may be more effective than -- or persuasive, I guess was the word you used, than another. 16:11
Q. So again, are you saying that it's the individual that is the central element here in terms of which source would be more persuasive? 16:13
A. I think I'm saying the individual would be one. But it could be the -- as I said, the product or the decision, the environment. There are numerous factors that would be involved. 16:13
Q. When someone is trying to make a decision regarding -- let me strike that. 16:14
If someone is trying to make a 16:14

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decision concerning a health issue -- 16:1
MR. HOHN: Concerning a health 16:1
issue or the health issue? 16:1
MS. TYLER: A health issue. 16:1
MR. HOHN: I'm sorry. 16:1
Q. Which sources do you think are more 16:1
persuasive, interpersonal sources of 16:1
communication or the mass media? 16:1
A. Well, I think it would depend. And there is 16:1
quite a bit of literature for -- certainly for 16:1
information campaigns or health issues in a 16:1
sort of social marketing kind of framework, 16:1
that has looked at the impact of mass media 16:1
relative to interpersonal sources. Those -- 16:1
depends on which study you look at. Obviously 16:1
the findings aren't always the same. But both 16:1
of those do have an impact. Now, if you're 16:1
talking about health issues that are like 16:1
health issues related to certain kinds of 16:1
products, then like I said, I would assume 16:1
that you could get information from both of 16:1
those sources and it would depend on these 16:1
factors based on what the issue is. Is it 16:1
radon gas in my house, or is it some other 16:1
health-related issue in that sense. 16:1

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Q. Let's take HIV and AIDS as an example. In gathering information regarding how one should conduct themselves in order to prevent, avoid, HIV and AIDS, which do you think is the more persuasive source of information; an interpersonal source of information or the mass media?

A. I think it depends on what your objective is. If my objective is something like awareness, for example, certainly there has been evidence that mass media have garnered awareness of certain issues in our society related to HIV. If I am looking at different -- different decisions that are made, then an interpersonal source might be more effective. Although I'm thinking of like how to protect oneself, how to practice safe sex, for example, that has been to the degree that it can be presented on the air waves, which is limited because televised public service announcements -- there are issues -- community issues about what kinds of things actually can be disseminated that way; whether or not the ad will get run in a certain community. But certainly for that kind of behavior I've seen

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information that has been disseminated via the mass media on public service announcements, as well as radio. Certainly there is print. There is brochures. And then there are also aspects of like how to -- how to -- whether it's in the schools or whether it's parents or some other kind of a situation that would tend to be more interpersonal. I don't think one can predict -- I don't think one can state unequivocally that one would be more persuasive than another.

Q. Assume for the moment with me, Professor Stout, that both sources of information exist and are providing messages regarding how to avoid the onset of HIV and AIDS. Both interpersonal sources and the mass media are providing messages regarding how to prevent that onset, which of those sources do you think would be more persuasive on an individual?

A. I'm sorry, but it depends on the individual. Some people won't have access to the mass media. Drug users who you are concerned about relative to HIV won't have access or if they're watching the PSAs when they come on

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because of the placement for HIV, especially, because they can't buy prime time, they get donated time and space, so they don't have a choice over where that's going to run, so sometimes that mass media message might not reach the target person. So it does have to do with -- I guess, like I say, the individual, but also the individual as far as their ability to be exposed to the medium. 16:1

Q. So access to the mass media is an important component of this issue, is it not? 16:1

A. Well, certainly if you're trying to say which one is more persuasive -- mass media or interpersonal, one has to assume there is access to that media. 16:1

Q. Well, one cannot, as you just mentioned, one cannot be persuaded by a message they don't see; is that correct? 16:1

A. That would be my assumption, yes. I would have to be exposed to it. Most of the psychological models assume that you have some kind of exposure; whether it's -- exposure that you can cognitively recall or not is another issue. But that you are exposed in some manner. 16:1

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Q. So one has to be exposed to a message in order for that message to have any impact at all? 16:1

A. I wouldn't be familiar with the message -- from mass media and I'm talking about exposure through any means, then. So obviously we said mass media, but I might not be exposed to the message via interpersonal, either. So when I mean exposure, I mean exposure black and white. I either get it through some channel of communication or I don't. And if I'm not exposed I haven't received it through any channel of communication. 16:1

Q. Could you provide for me, Professor Stout, a list of highly credible interpersonal sources about health issues? 16:1

A. Highly credible interpersonal sources. Well, some of the research has indicated -- well, let me back up because some of the research that I've done, in fact, has attempted to assess for the individuals in the target relative to the issue at hand, who the credible sources would be. So, for example, my work at the CDC, we were looking at young people and we were looking at -- for HIV, prevention, so we were looking at -- we asked 16:2

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them, we did research to ask who do you see as important sources for your message of receiving information about prevention of HIV. 16:2

And then based on that, we looked at, based on a consensus, what the credible sources were. So people may have written down, it was open-ended. They may have written down their pastor or church. They may have written down their boyfriend or girlfriend. They may have written down their parent, they may have written down their doctor. They may have written down a number of different choices. And then based on that, that was how we used to design our campaign and who should be the spokes people in the campaign. Well, what did the target -- who did they say they would listen to. And so that was how we made our decision. 16:2

Q. And based on that research, who was on the list of highly credible interpersonal sources regarding health issues? 16:2

A. Well, for the study that we did on HIV prevention, it was their friends and people like themselves. So we did put young people into the mix that were tested. 16:2

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Q. So friends and peers? 16:2
A. For that particular study for that particular issue, right. At that particular point in time, if I were to conduct that research again now, young people might have a different interpersonal source. 16:2
Q. Do you think parents are a highly credible source about health issues? 16:2
A. I think it depends on the issue, I think it depends on what kind of relationship the individual has with their parents, which would probably also be related to age of the person -- the individual and maybe their parents, too. So -- 16:2
Q. Again, it's an individualistic analysis as to whether or not parents are a highly credible source about health issues? 16:2
A. I think that one needs to determine for a particular health issue for a particular individual, who they see as a source. They might not see parents as a source. Or some subgroups might see their parents as a better source. Like I say, we found that certainly for African Americans, the church is a much more reliable source for certain kinds of 16:2

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information than it is for other groups of people. So it does depend on the individual, quote, unquote, in that sense, as that individual is part of a subgroup. 16:2

Q. Or teachers? 16:2

A. Teachers certainly for the research that I had done, they were listed, although not as much. 16:2

Q. Or family physician? 16:2

A. Physicians were listed for the HIV prevention study that I participated in. 16:2

Q. As credible sources of interpersonal communication? 16:2

A. It was not at the top of the list. All of the things we mentioned were listed, came up as suggestions, but because the frequency, the one appearing most frequently for the largest number of people who had responded to those particular questions was, their friends and peers, that's what we used in that particular study. 16:2

Q. Now, in the study you were examining teenagers? 16:2

A. We were looking at eighteen to twenty-one, I believe it was. 16:2

Q. And so friends and peers were the highly 16:2

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credible sources that they identified most often? 16:2

A. For getting information about HIV prevention and AIDS. 16:2

Q. And we've mentioned parents, religion -- ministers, teachers, family physicians. Are there others that you can think of that were named as highly credible sources regarding health issues? 16:2

A. I think somebody put Surgeon General Coop on there, but that was for that particular study. 16:2

Q. Do you think that Surgeon General Coop or a Surgeon General, in general, is a highly credible source of information on health issues? 16:2

A. Well, it depends on the issue and it depends on the target. So I don't know -- I don't have evidence to counter this except with my work as I've just explained to you with the work I did at the Centers for Disease Control, but for that target group of eighteen to twenty-one year olds at that point in time, the Surgeon General did not come up as a credible source for health information. Now, had I asked a similar question to parents 16:2

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thirty-five and over about that, they may have had a different answer. He may come up as a credible source for them or for other health issues relative to them, or for drug users instead of teens that we were -- that we weren't looking specifically at drug users in this particular instance. So ... 16:2

Q. Among mass media sources, Professor Stout, which would be more credible in your view -- TV news or TV advertising? 16:2

A. Well, it depends again on what the message is. Clearly, I think that -- and that's an issue in research and journalism in mass communications relative to the blurring as to what is news and what is advertising or publicity, at this point in time. I think it depends on what the issue is and I would assume there would be individual differences, as well, on how people would rely. 16:2

Q. So based on individual differences, some might rely more or less on TV news? 16:2

A. I would say yes. Obviously, there is -- there are surveys that are done now in by some of the public opinion organizations that look at how credible people think the news media is. 16:2

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For example, what we think of the media and journalists in general. Clearly, there have been surveys for quite some time. I think Stu Grazier was one of the earlier people who -- at least that we bring to mind most often on surveys about people's attitudes toward advertising, in general. So some people have more positive or less positive attitudes to either one of these types of communication -- the news or advertising. And I think that probably shifts across time, as well. So certainly we're seeing a lot going on in our political arena now in the United States that leads people to look at journalists and the news more and perhaps question that unbiased ethical source. The objectivity of the journalist.

Q. And again, based on the individual, one might be influenced by advertising or one might not be influenced by TV advertising at all?

A. I would think, certainly there is the exposure aspects and people may not find advertising credible, so I mean -- surveys show some people don't find advertising -- the instance here of advertising as an umbrella, and the

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advertisement, itself. So I can say that I don't find -- I find advertisement irritating, as an example, and I might say that, but I mean all advertising and I'm really saying that because when I'm -- let me use another example, which is a good a personal example, which is telemarketers. I find telemarketers very irritating and it's because I get so many calls every day, but I might happen to get a call from one telemarketer which is something that I really want and so all of a sudden that particular telemarketer isn't as irritating to me or I am not as irritated by, because there is some match there of the like. So --

Q. Because that telemarketer is addressing a need that you have?

A. Exactly. Right. And so advertising is the same. But when we look at advertising in general sometimes, the survey results show that people find advertising either more or less irritating or helpful, but if you were to look at certain ads, then the outcome is usually not the same because people do find some advertisements very helpful. It helps me to find out where to go to get the kids

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immunization shots before school starts. It helps me to find where to go to Pepsi on sale. It helps me to find where to go to get a -- that there's a sale at this department store this weekend, et cetera.

Q. Do you think individuals find advertising more or less irritating or helpful depending on whether or not there is that fit and it is addressing a need that they have?

A. Well, I think it -- certainly the sort of theory or the literature seems to suggest the importance of involvement in some way. So that we are more -- that we're more likely to pay attention to things. That there is some kind of a match. Now, whether that match or that need, quote, unquote, is an immediate need, I mean, that is part of the social effects of advertising argument, the psychological needs versus the physical needs, meaning I need food or I need the psychological thing that I'll be able to -- my co-workers will find me more attractive if I use the striped toothpaste instead of some other type of toothpaste. So there are both of those kinds of needs. And the

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psychological needs -- I don't know whether both of those types of needs would translate equally into sales is another component, I think, of that issue, so ... 16:2

Q. Are you saying that people attend to advertising for products that match their needs? 16:2

A. I'm saying that sometimes people may pay attention to advertising -- again, we're looking at needs here, whether they're psychological needs or utilitarian needs, essentially, that they actually have to have this now relative to things that maybe they might like to have in the future. I certainly look at the Lexus ads in the hopes that someday I might have a Lexus, but I'm certainly not going to be buying a Lexus any time in the near future. So I may pay attention to ads that, in fact, do not have an impact on me right now, that's not going to translate into a Lexus sale this week or this month, or probably even this year, but maybe five years down the road it might or if I win the lottery, so ... 16:3

Q. Professor Stout, do you think that people -- 16:3

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that most people find industry statements to be a credible source of information about health? 16:3
A. Industry statements? What do you mean? 16:3
Q. Statements by manufacturers of products. 16:3
A. I haven't seen any research on that, per se. Like I say, some of the work that I've done, I know in discussions, at least, we have -- there is that notion of skepticism, that people are skeptical of who the source is. I mean, some people are skeptical of the government for health sources. African Americans are very skeptical of the US government as a source of health information because of previous behavior that government has done that leads them to be very skeptical. Other groups of the population aren't as skeptical of that source. 16:31
Q. Isn't it perfectly natural for consumers to be skeptical of the industry that's trying to sell them a product of the information that they are providing regarding a health issue? 16:31
A. Well, I don't know. It depends. It depends. If I look to that source for information, then I would expect that they are giving me 16:31

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truthful information. So let's say reading the labels on products now, and am I to be skeptical of those labels? Clearly, there have been some issues in that area already, what constitutes light, is it l-i-g-h-t, is it l-i-t-e? What is the percentage of whatever content, fat content, if it's fat free, if it's light, et cetera. So I think sometimes people may not even be aware of that, in fact, the health message that they're getting is, in fact, not what they think it is. So I think it's light, so I think that it's low fat. And then I typed out it's only half as much fat as the non-light, but the non-light has 25 grams of fat, so this one has 12 and-a-half which is still a lot of grams of fat. So, in fact it isn't -- it's half of the other, but it isn't low.

Q. Do you think that consumers take into account the fact that advertisers are trying to sell them a product when they examine the messages that are being transmitted?

A. I think that some people would do that more than others, and it would be for certain products, for example. Again, if we look at

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different kinds of products or product categories, the candy bar might be less, if it doesn't cost me very much, if I chew into it, if I bite into it, it doesn't taste like they said it was going to taste, then I can throw it away. I'm out 35 or 50 cents and I would never buy it again. 16:3

Q. So again, it's an individualistic response? 16:3

A. Well, individual in conjunction with the -- with those other factors -- the product category, et cetera. 16:3

Q. But there are certainly consumers who are skeptical of industry statements regarding their products? 16:3

A. Well, I haven't seen any research or survey data on that, but I would assume that, but I'm being -- I'm speculating here. I don't have any evidence to -- 16:3

Q. Because you're skeptical? 16:3

A. Well, I found in my classes that students are skeptical of business. And it's interesting because my students in my classes oftentimes are business students or they're advertising students. They're going to go work in business. They're not going to be theologians 16:3

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and work in the church or necessarily even work in elementary education. And for students who are going to make their living that way, that are getting their degrees so that they can spend a good deal of the rest of their lives working for companies like that, but to be skeptical of big business, I find that -- so that is sort of anecdotal evidence, but I do find that in my classes when we talk about some of those kinds of issues, especially in my social change class.

THE WITNESS: Could we take a break at this time?

MR. HOHN: Sure.

THE VIDEOGRAPHER: Off the record at 4:35.

(Whereupon, a brief recess was taken).

THE VIDEOGRAPHER: Back on at 4:52 p.m.

BY MS. TYLER:

Q. Professor Stout, we're back on the record after a short break. Are you ready to proceed?

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A. I am. 16:
Q. Professor Stout, which do you believe would be a more credible source, anti-smoking organizations or the tobacco industry? 16:
A. Credible source of information about what? 16:
Q. Regarding smoking and health issues? 16:
A. Well, I think it depends on what the persons -- what the message is, and people's perspective whether they would, again, we've been talking about source credibility, so whether or not they think that an anti-smoking, like I said, without knowing exactly what that organization would be, would that be the US government or some other group. So I think it would depend on who the organization was that was providing the information on either side and then, as well, the factor of individual proclivities relative to where they think are good sources of information. 16:
Q. Let's use for our example, information regarding smoking and health; information regarding whether or not smoking is harmful to health. Do you think that people believe that anti-smoking organizations, for example, the 16:

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American Cancer Society, are more credible sources of information regarding those issues than the tobacco industry? 16:

A. I don't really have any evidence on that. It would be purely speculation, so I haven't seen any data that would indicate which group was more credible. I haven't seen any surveys about how credible people think the American Cancer Society is. 16:

Q. Well, as compared to the tobacco industry, which do you think is more credible? 16:

A. Well, I'm not a smoker, so I think it would depend on the individual to that degree of relative to whether they're -- whether they purchase in the product category or not. So my -- the way that I would interpret things would be different from someone who smoked. And certainly I've had experience with creating those kinds of messages that are disseminated by those kinds of organizations, so it's -- that's different from the general public. 16:

Q. Do you think only smokers are concerned with smoking and health information? 16:

A. Well, I think that clearly the issue of 16:

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secondary smoke at this point is an important issue in discussion and so clearly, I would say that non-smokers, as well are concerned. 16:54

Q. Well, do you think that consumers look to the tobacco industry for health information? 16:54

A. I don't have any evidence on that. Like I said, there is -- as a non-smoker it's difficult for me to say. A smoker who smokes -- who is a regular smoker who's brand loyal may have a different attitude towards the tobacco -- to tobacco organizations than a non-smoker. 16:54 16:55

Q. Do you have any opinion on whether or not people look to the tobacco industry for health information? 16:55

A. Well, as I said, I don't have any evidence that I can recall that looks at that as a source; whether that's a credible source. And like we were talking about surveys about advertising earlier before the break. 16:55

Q. Do you have a personal opinion? 16:55

A. Well, my personal opinion is, again, based on the fact that I'm a non-smoker. So I would -- if you're asking me for my personal opinion, which I would -- like I say, I don't have 16:55

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evidence for this, but personally, if I were a non-smoker, I'm not sure that I would -- well, I just -- like I say, my personal opinion is based on -- based on my work in creating those kinds of messages and the like and I just can't really speak for the general public at all. 16:55 16:55 16:55 16:56 16:56 16:56

Q. Do you look to the tobacco industry for health information? 16:56 16:56

A. Do I, personally? 16:56

Q. Yes. 16:56

A. You're asking me the same question again. I don't -- I don't smoke, and so the way that I look for health information would be different, I think, from someone who smokes. 16:56 16:56 16:56 16:56

Q. Do you think a smoker looks for health information in different places than a non-smoker? 16:56 16:56 16:56

A. Well, I would assume that there would be some overlap, but like I say, based on the fact that you're involved with the behavior, and that you are supporting the industry through your purchase of the brand in some way, that that would -- that would have a different impact. That would influence you differently 16:56 16:56 16:56 16:56 16:56 16:56 16:56

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than someone who doesn't smoke. 16:5
Q. Which source do you think would be more credible regarding smoking and health issues; the Surgeon General or the tobacco industry? 16:5
A. Well, as I said, it would depend -- it's going to depend on the issue and it's also going to depend on the individual. As I said, there is evidence that African Americans, for example, find the government, which by that I mean would be the Surgeon General, as well, as -- they find it less credible than other groups do. And so there is -- there is evidence of that. 16:5
Q. And in my hypothetical, the issue is whether smoking is harmful to health. Are you saying that whether or not the Surgeon General is more credible than the tobacco industry regarding smoking and health is an individual -- is driven by individual characteristics? 16:5
A. Well, it's -- to some degree, yes, based on whether they're a smoker or not, so I may be more likely to trust the industry if I am a smoker because I'm already -- I spend money to support that industry. Obviously, I spend 16:5

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money to support the government, as well, because my taxes go to the government. 16:58
Q. Do you think that smokers purchase cigarettes in order to support the tobacco industry or in order to purchasing a product that they want to buy? 16:58
A. I think they probably don't give a real lot of thought to that they're supporting the tobacco industry. 16:58
Q. And do you have any evidence that smokers trust tobacco industry? 16:58
A. As I said, I have no evidence on either of those as a credible source on tobacco. As I said, I'm aware of some evidence relative to the government and African Americans trust in the government as a source of health information, because of the work I've done at CDC, but I do not recall reviewing any documents that presented survey data. 16:59
Q. As you mentioned, you pay taxes. Do you trust the government? 16:59
A. I trust the government for some things and I may not trust them as much for other things, so ... 16:59
Q. What do you not trust the government for? 16:59

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A. Well, I'm sure there are a number of things that I might not trust the government for. I may not -- do you have like a particular issue in mind? 16:59
Q. No. 16:59
A. Okay. 16:59
Q. When you pay taxes, do you look upon that act as a means of supporting the government? 16:59
A. When I pay my income taxes and the like? 16:59
Q. Taxes. 16:59
A. I do look at that, certainly, when I consider where monies are allocated for programs, whether I would personally support those programs or not, and realize getting my tax monies getting allocated in ways that I don't have a real lot of control over. 16:59
Q. But when you pay tax money, you're not interpreting that act as an effort to support government as government, you are looking at that act as an effort to support programs that that government effectuates; is that correct? 17:00
A. That would probably be true. I mean, I would look at it more that way, but I do look it as the government. These are my personal opinions. 17:00

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Q. So going back to the issue of the credible sources of information, the tobacco industry versus the Surgeon General, you mentioned that it would depend on the issue, which I've defined as whether or not smoking is harmful to health, and you mentioned that it would pretty much be up to the individual characteristics, smoker versus non-smoker. Are there other individual characteristics that come into play?

A. Well, maybe some of the psychological traits that we had talked about before relative to self-esteem and locus of control, personality traits may fit in there in some way as to who people trust at all.

Q. So in terms of who people trust to provide accurate health information, that's essentially an individual analysis dependent upon an individual's needs, socioenvironmental factors, background, need for cognition, income, lifestyle, personal experience, culture, ethnic background, religion, self-esteem, external versus internal locus of control, personality, and impulse?

A. I think those things would interact with how

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people assign credible sources. Many of those things are studied in source credibility literature. 17:

Q. Professor Stout, have you ever taught organizational communication? 17:

A. No, I have not. 17:

Q. Organizational behavior? 17:

A. No, I have not. 17:

Q. My understanding, you are moving into the organizational communicational -- organizational communication area; is that correct? 17:

A. I'm working on a project right now that is less involved with mass communication and more involved with communication among groups. 17:

Q. Have you ever taken a course in organizational communication? 17:

A. I don't believe I have, no. 17:

Q. Are you familiar with the concept that businesses in America function on the basis of what is called a marketplace of ideas? 17:

A. I'm familiar with that concept, yes. 17:

Q. Do you agree with that concept? 17:

A. That -- read the statement again, please? 17:

Q. Are you familiar and do you agree with -- do 17:

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you agree with the concept that businesses in America function on the basis of what is called a marketplace of ideas? 17:0

A. Well, I think this again is one of those issues and we've discussed a couple earlier today that are debatable. 17:0

Whether or not there is a marketplace of ideas or whether or not there is, I want to say, equal access sort of for businesses to be able to practice what they do. So there is certain -- like I say, this would be a topic for discussion, I think in a social effects of advertising course. 17:0

Q. You mentioned equal access for businesses. Do you mean equal access between businesses or within business? 17:0

A. I mean equal access for businesses to be able to have the opportunity to compete. Many of those restrictions are economic restrictions, for example, to be able to get into the marketplace to actually be a player. 17:0

Q. Well, Professor Stout, would you agree with the premise that employees in companies share thoughts and opinions and management is ultimately charged with making decisions of 17:0

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policy?
A. That employees within an organization share thoughts and opinions, meaning that they speak with one another and talk over the water cooler and --
Q. And write memos, and discuss -- sure?
A. I would agree that they do.
Q. And that management is ultimately charged with the responsibility of making decisions of policy?
A. That would be probably the role of management in most organizations. I think some organizations are more hierarchical than others, so there would -- there might be situations on how you're defining management, whether the company's employees run the company, for example; at least in theory or how hierarchical the organization is.
Q. Would you agree that employees within a company and I'm referring to rank and file employees, might share thoughts and ideas and opinions, but that ultimately upper management, CEOs, and those type of individuals of the company, are charged with the responsibility of making decisions of

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policy based on the thoughts and ideas that are expressed within the corporation?

A. Well, again, you're getting a little outside my purview here because I'm not an expert in organizational communication, so it's hard for me to make a fair answer to your question. I think that people might assume that management -- first of all, what constitutes management, and management is also responsible to certain constituencies, as well, they're responsible to stockholders and the board of directors and theoretically to the general public if one would set social responsibility of business. So --

Q. But is the construct that I just described what you understand to be the way American businesses function?

A. Many American businesses, but maybe not all.

Q. Do you think that's an appropriate way for American business to function?

A. I'm not sure if I have an opinion on that.

Q. Do you have a personal opinion on that?

A. I think there are different ways that business functions. And some -- certainly we've seen most recently if we look recently at the

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technology area, again, where there is a completely different kind of a set-up on what constitutes the organization. So I'm not a scholar of organizational theory. 17:05 17:05 17:06 17:06

Q. You mentioned that upper management has certain responsibilities to stockholders. What are those responsibilities? 17:06 17:06 17:06

A. I said, I think that they're a constituency and so different organizations with different management and different boards may have different responsibilities. I think in part the boards may dictate that sometimes what -- how they would prefer that the organization conducts its business, but I think that that would be based on a company-by-company basis. 17:06 17:06 17:06 17:06 17:06 17:06 17:06 17:06

Q. Do you think that for many companies the responsibility of management is to maximize shareholder value? 17:06 17:06 17:06

A. I would think that that may be a goal for many companies for management. Not all -- 17:06 17:06

Q. You don't think it's a goal? 17:06

A. I don't know what all the goals are for all companies that -- and their management. I know there are some companies that don't have shareholders, so -- 17:06 17:06 17:07 17:07

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Q. Well, assuming the company has shareholders, do you think that one of its responsibilities is to maximize shareholder value? 17:07
A. I would imagine shareholders think that. 17:07
Q. As a matter of fact, are you aware that stockholders can sue the management of a corporation if they feel the company is not maximizing shareholder value? 17:07
A. I know there are often difficulties that certainly in my readings and the like that there are some problems with companies or corporations when management and the board don't agree. 17:07
Q. And do you agree that one of the ways to maximize shareholder value is to make a profit? 17:07
A. I would imagine that that is one way to do that. 17:07
Q. In terms of the ideas expressed within a company, do you understand and agree that some ideas expressed within a company may be adopted by management? 17:07
A. Ideas expressed -- you mean by the rank and file employees or -- 17:08
Q. Correct. 17:08

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A. I would imagine that is one way to communicate. As I say, you're getting outside of my area of expertise here, because I would say -- I know that I don't know enough about organizational theory to know that there are models of how organizations run, and I think your querying me about things that would have to do with that area. And I'm really not an expert in that area. I'm not familiar with those theories, so ... 17:08

Q. Professor, you worked for an advertising agency, did you not? 17:08

A. I did. 17:08

Q. Judge? 17:08

A. Judge Advertising and Public Relations. 17:08

Q. And you had ideas and thoughts and opinions during your employment with that company, did you not? 17:08

A. I did. 17:08

Q. Were they all adopted by management? 17:08

A. I can't recall, but I would doubt it. 17:08

Q. So some were adopted by management; is that correct? 17:08

A. Some might have been adopted by management, yes. 17:08

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Q. Were any of them adopted by management? 17:0
A. Well, I worked there in 1979, so I can't recall the exact ideas that I had and whether or not they were adopted. 17:0
Q. But your recollection is that some were probably adopted? 17:0
A. I would imagine that if I had suggested ideas at meetings that some of those ideas would have been seen as being good ideas and being adopted. Whether or not those would have an import on -- at the levels I assume you're talking about with CEOs and boards of directors and shareholders, and the like, I'm not certain that there is that relevance. 17:0
Q. And at the same time you expressed ideas and opinions which were not adopted by the corporation; is that correct? 17:0
A. I would assume that based with the caveat to the response that I just gave you. 17:0
Q. Do you agree that's a pretty normal way for American businesses to function? 17:0
A. Well, I haven't been in all American businesses, so I have a limited -- like I say, I'm not a scholar of business and I'm not a scholar of organizational theory. And I have 17:0

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spent, as you have noted from my vitae the greater part of my career in the university. So I don't know that I'm the best person to comment on how American business functions on a day-to-day basis by hypothetically placing myself as an employee in that business. 17:09 17:09 17:10 17:10 17:10 17:10

Q. Well, within the university you've expressed thoughts and opinions as an employee of the University of Texas; is that correct? 17:10 17:10 17:10

A. I have. 17:10

Q. And some of those ideas and thoughts have been adopted by the University of Texas, have they not? 17:10 17:10 17:10

A. Some of them have. It's a state institution, though, and it operates on a state budget and it doesn't have shareholders, per se. The CEO serves at the board of regents, the chancellor can, like I say -- it's not a parallel system in my mind. 17:10 17:10 17:10 17:10 17:10 17:10

Q. But some of those ideas were adopted by the University of Texas? 17:10 17:10

A. I can say that I have presented ideas and the ideas I've presented to various individuals or groups across time have been accepted. 17:10 17:10 17:10

Q. And others have not been accepted? 17:11

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A. Others have not been accepted. 17:1
Q. Professor Stout, I understand you obtained your Ph.D. at the University of Illinois in 1985; is that correct? 17:1
A. That's true. 17:1
Q. And can you tell me the thesis of your dissertation? 17:1
A. Well, I was looking at -- it was very early on in the research on emotional response to advertising, as far as using emotion in advertising, so I was looking at whether or not people, in fact, experienced emotional responses, and then what types of impact those experiences might have relative to advertising. 17:1
Q. And how did you choose that particular thesis? 17:1
A. That topic? 17:1
Q. Yes. 17:1
A. For the dissertation? 17:1
Q. Yes. 17:1
A. It was at a time where advertising was -- there was quite a bit of information in the media, Advertising Age and the like, relative to the use of emotion in ads and that advertisers tended to be doing more types of 17:1

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advertising that would be seen as emotional appeals or defined as emotional appeals. And there wasn't a good understanding at that point in time as to how -- how that worked. And so it was a timely topic in the academic field and certainly in the -- in the real world, so to speak. 17:1

Q. How long did it take you to research that thesis from beginning to end? 17:1

A. Well, I worked on that. I probably began work on that in 1983, and then worked on it for two years. I left the University of Illinois in 1984, and took a teaching position at Texas, so I was working full-time as a faculty person at Texas while I was completing a degree. So that obviously I didn't have full-time to work on it, because I -- 17:1

Q. But in years, how long did it take you to complete your dissertation? 17:1

A. Probably, as I just said, I think, two years, if I had begun in about '83 and then I got the degree awarded in '85 -- spring of '85. 17:1

Q. How did you undertake to prove or disprove the thesis of your dissertation? 17:1

A. I looked at a data set from an advertising 17:1

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agency that had collected information from consumers on real ads, and I used that, then, as a way to examine the questions that I had asked. I developed, as well -- I spent quite a bit of time on a definition of advertising and relative to a -- a definition, excuse me, of emotion, relative to one that would be applicable to advertising, since I was pulling most of my work out of the psychology literature.

Q. Did you also look at secondary literature?

A. I looked at a great deal of secondary literature, yes.

Q. What else did you do?

A. I developed a coding scheme and I looked at the verbatim responses of the individuals to the commercials in the data set that I was using, and then those verbatim responses were coded, and then those data were analyzed.

Q. And then you reached your conclusions?

A. And based on the analysis, then, I interpreted the findings and wrote up the dissertation.

Q. And I believe you told me you had a dissertation advisor and that dissertation advisor was Doctor Lackenby?

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A. That's correct. 17:14
Q. Did Doctor Lackenby make suggestions of information that you might want to review? 17:14
A. I'm sure he did. We had many meetings. That's typical; that a doctoral student would meet with their thesis advisor, their dissertation advisor, on numerous occasions and he would have made suggestions. That's part of the role of a supervisor. 17:14 17:15
Q. So along the way he provided -- he suggested additional sources of information which might prove fruitful? 17:15
A. I'm sure he did. 17:15
Q. Do you have a recollection that he did? 17:15
A. I can't recall specific things that he would have suggested that I read or take a look at or analyze. 17:15
Q. Did you have ideas of your own regarding sources of information you might want to look at? 17:15
A. I did. 17:15
Q. And did you seek out those sources of information on your own? 17:15
A. I did. 17:15
Q. And what was the purpose of all of this 17:15

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research? 17:
A. The purpose of it, meaning? 17:
Q. Well, was the purpose of this to make sure that your work was thorough? 17:
A. Yes, as thorough as it could be. 17:
Q. And was the purpose of all this research to make sure that your conclusions were defensible and accurate? 17:
A. As much as they could be, given the constraints of working on the dissertation. 17:
Q. Right. 17:
A. That's what I'm saying. 17:
Q. Did your dissertation advisor send you documents and instruct you that that would be what you would need to complete your dissertation? 17:
A. I'm sure that he -- it wouldn't have been an issue of sending because we could have met in his office on a weekly basis. It's more likely that he suggested I take a look at certain things. I know he did have an extensive file. He had done research -- copy -- research on copy research as an area, and I do recollect that he gave me his files, probably like a four or five-inch folder that 17:

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I then could go through and xerox. 17:1
Q. But did Doctor Lackenby provide you with those 17:1
materials and instruct you that was all you 17:1
would need to look at to complete your 17:1
dissertation? 17:1
A. I don't believe he would have done that, no. 17:1
Q. Why not? 17:1
A. Because I would have been collecting 17:1
information from other sources. 17:1
Q. In order to make sure that your dissertation 17:1
was complete and thorough and accurate; is 17:1
that correct? 17:1
A. Yes, that's true. 17:1
Q. Did your dissertation advisor advise you to 17:1
look only at documents that supported your 17:1
thesis? 17:1
A. I doubt that he would have advised me to do 17:1
that. 17:1
Q. And is that because he wanted you to look at 17:1
various sources reflecting various points of 17:1
view in order to fully test your thesis? 17:1
A. Well, I think we touched upon this earlier 17:1
today, about the attempt to be as thorough as 17:17
one can be, given the constraints. Also that 17:1
there might be various perspectives, so you 17:1

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may purposely be looking at comparing the research that one researcher has done compared to another, and that yours is intended to resolve some question that has arisen based on that. So there are various reasons, but --

Q. And as you reviewed materials in connection with your dissertation, did you examine or take into consideration any bias a given source might have?

A. Well, I'm sure I would have evaluated the source of the information. We've talked about things like peer review journals and conference proceedings and the like earlier today.

Q. And it's important to consider bias of a given source to make sure you're not being influenced by one party's position one way or another; is that correct?

A. Well, I think one tries to collect as much information as they can within the constraints. They do attempt to interpret the source of that information, and then use that accordingly as it fits the project that they're working on.

Q. In connection with your testimony against the

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tobacco industry in this case, did you receive documents from attorneys representing the State of Texas? 17:1

A. I have received documents, yes. 17:1

Q. From what firm did you receive these documents? 17:1

A. They were mailed with a cover letter by Texas Tobacco Litigation. 17:1

Q. And who signed that cover letter? 17:1

A. I would have to look and see. I'm not sure. I think it was Rhett Klok, but I would have to check. 17:1

Q. It could have been Andrea Parker? 17:1

A. It could have been Andrea Parker. 17:1

Q. Is that the only firm representing the plaintiff in this case from which you received documents? 17:1

A. To my knowledge, it is, yes. 17:1

Q. When did you receive these documents? 17:1

A. The documents were received in early August -- a couple of weeks ago, I think. 17:1

Q. Early August. That would have been after you had agreed to serve as an expert witness in this case; is that correct? 17:2

A. That's correct. 17:2

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Q. After that date; correct?
A. Yes; August. Just a couple of weeks ago, I think.
Q. Did you receive only one shipment of documents from Texas Tobacco Litigation, or did you receive more than one?
A. I had received -- I've received some information to review from Texas Tobacco Litigation on more than one occasion. Documents -- some were documents. I'd received some on more than one occasion.
Q. Can you describe the documents that you've received to review?
A. I --
Q. I would appreciate it if you could do it in chronological order.
A. I'm not sure I can do that. I will try to do that to the best of my ability.

I received a copy of a chapter from a dissertation.

Q. Whose dissertation was that?
A. I won't be able to tell you that without looking at the document.
Q. What was the dissertation about?
A. The chapter was about public relations.

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Q. Public relations in general, or public relations by the tobacco industry? 17:1
A. Public relations by the tobacco industry. 17:1
Q. And you don't know who wrote that? 17:1
A. I can't recall the name right now. 17:1
Q. Do you know when it was written? 17:1
A. I can't recall right now. 17:1
Q. And the law firm just sent you one chapter? 17:1
A. I believe so. 17:1
Q. Did you ask for the entire dissertation? 17:1
A. I didn't at that point in time, no. 17:1
Q. Have you since? 17:1
A. I haven't, no, not since. 17:1
Q. What else have you received from plaintiff's counsel? 17:1
A. I have received copies of advertisements that have been prepared by Doctor Pollay. 17:1
Q. How many advertisements would you say you received as having been prepared by Doctor Pollay? 17:2
A. I would say probably a couple hundred. Maybe more. 17:2
Q. You're aware that Doctor Pollay lives and works in Canada; is that correct? 17:2
A. I am aware of that, yes. 17:2

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Q. Are many of these tobacco advertisements Canadian tobacco advertisements? 17:22
A. I don't believe so, no. 17:23
Q. Do you have any evidence that these tobacco advertisements were shown in the State of Texas? 17:23
A. I don't have any empirical evidence to that effect, although -- I don't have empirical evidence to that effect. I would have to look at all the ads because some of those I may also have copies of from my own data collection. 17:23
Q. We're just talking about the advertisements that you received from the lawyers that were collected by Doctor Pollay. Do you have any empirical evidence to the effect that they were shown in the State of Texas? 17:23
A. No, I do not. 17:23
Q. Do you recall the brands represented by these advertisements? 17:23
A. There are multiple brands. It's an historical overview, so it represents brands from probably the fifties and sixties to more current times. 17:24
Q. And just so the record is clear, these are all 17:24

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cigarette advertisements; is that correct?
A. There is some storefront signage and, yes, they're all cigarette advertisements. Some of them -- yeah, they're all related to cigarette advertisements.
Q. I will represent to you, Professor Stout, that I have no cigarette advertisements have the fifties or the sixties have been produced to me.

MR. HOHN: Well, through Doctor Pollay's disclosure, as well?

MS. TYLER: There is no reference to Doctor Pollay's disclosure in the expert statement of Professor Stout.

MR. HOHN: There is in the cover letter to you.

MS. TYLER: I am marking a letter dated August 14 to Thomas W. Stoever from Jeffrey Angelovich as Stout Exhibit 5.

Q. Professor Stout, could you take a look at that cover letter and tell me where in that letter it references advertisements from Doctor Pollay?
A. (Witness peruses document).

MR. HOHN: That's only as to the

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disclosure statement. That's not as to the disclosures. The materials came from Port Arthur. That's only as to the disclosure statement. 17:2

MS. TYLER: Well, we can take this -- I'll take this up with counsel later. 17:2

Q. My question stands, Professor Stout. Do you see any reference to documents received from Professor Pollay in that letter? 17:2

MR. HOHN: We'll stipulate it's not in there. 17:2

Q. What other documents did you receive -- let me step back for a moment. Do you know how Doctor Pollay collected these advertisements? 17:2

A. I know that he has an advertising archives that he heads at the University in British Columbia, and so I'm not aware of what his methodology was for this particular set, but I would assume that he had collected them from research that he has done over the years on advertising. 17:2

Q. Did you speak with Doctor Pollay regarding this collection of advertisements? 17:2

A. I haven't spoken with him about this, no. 17:2

Q. Have you spoken with Doctor Pollay about any 17:2

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issue related to this litigation? 17:27
A. I have -- well, I've spoken with Doctor Pollay because we had a meeting, and I have met with him, but not to discuss this case. 17:27
Q. Have you met with Doctor Pollay apart from that meeting with Hugh McNeely on issues related to this case? 17:27
A. Not really on issues related to this case, no. 17:27
Q. Not really related to issues on this case? Related tangentially to issues on this case? 17:27
A. Well, he was in town because of issues related to this case, and so ... 17:27
Q. What did you and Doctor Pollay discuss during the meeting with Hugh McNeely? 17:27
A. It was a meeting where we discussed, as I recall, issues concerning advertising. 17:27
Q. What did you discuss? 17:28
A. I don't recall the entire course of the meeting. Certainly, the -- I think there may have been some reference to the historical aspects of advertising. 17:28
Q. What did he tell you about the historical aspects of cigarette advertising? 17:28
A. Well, I don't recall specifically. I don't believe I took notes at that meeting, so ... 17:28

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Q. Did he discuss with you at that time the fact that he would be sending the lawyers information to send to you? 17:2
A. I don't recall that he did. I don't believe so. 17:2
Q. Did you discuss research methodology at that meeting? 17:2
A. Not to my recollection. 17:2
Q. You did not request that Doctor Pollay collect these advertisements for your review, did you? 17:2
A. I did not request them, no. 17:2
Q. And you testified you don't know what methodology he used to collect those advertisements; is that correct? 17:2
A. I don't recall that there's information with the package that presents that or not, but I certainly don't recall discussing that with him. 17:2
Q. And do you have any idea how many cigarette advertisements have been public -- have been exhibited to the American public from 1950 to 1997? 17:2
A. I don't have an idea of that, no. 17:2
Q. And you have no idea how he went about selecting a couple hundred advertisements for 17:2

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1		the lawyers to send to you out of a -- what I	17:29
2		will represent to you is a rather vast	17:29
3		collection of advertisements?	17:29
4	A.	Like I said, there may be information on there	17:29
5		on the methodology. I would have to look	17:29
6		again.	17:29
7	Q.	You think he provided you with the methodology	17:29
8		of how he selected those advertisements?	17:29
9	A.	I can't say right now. I'm not sure.	17:29
10	Q.	As you sit here today, you can't recall that	17:29
11		he did?	17:29
12	A.	I can't recall all that's in the package. I	17:29
13		reviewed numerous documents, a lot of	17:29
14		materials, and I, unfortunately, can't	17:30
15		remember the details of everything that I've	17:30
16		looked at.	17:30
17	Q.	What else did the lawyers send you?	17:30
18	A.	It seems to me there was a package of	17:30
19		materials from -- that are industry documents.	17:30
20	Q.	Can you quantify the amount of industry	17:30
21		documents you received from the lawyers?	17:30
22	A.	Compared to what? Quantify??	17:30
23	Q.	In inches.	17:30
24	A.	Oh, in inches; the total that I received from	17:30
25		the lawyers?	17:30

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Q. Have you received several sets of internal company documents from the lawyers? 17:3
A. No. I thought you meant with all these that we're listing here or just the internal company documents? 17:3
Q. Just the internal company documents. 17:3
A. Probably four inches. 17:3
Q. What types of documents were these? 17:3
A. There are various documents that are surveys, research reports, internal memoranda, and transcripts from talks or speeches that have been given by individuals, among other things. 17:3
Q. And your recollection is that those internal company documents equate to four inches of material? 17:3
A. Right. I would say approximately that. 17:3
Q. What companies produced -- what companies produced these surveys that you received from the lawyers? 17:3
A. There are some surveys -- Philip Morris surveys. 17:3
Q. Anything else? Any other companies producing surveys? 17:3
A. It seems to me there is a survey or report in there that is from a Canadian -- for a 17:3

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Canadian cigarette or Canadian company. 17:3
Q. Would that be relevant to your inquiry in this 17:3
case? 17:3
A. I'm not exactly sure. I think it -- it may 17:3
be. I mean, I may use it as a basis for my 17:3
opinion. 17:3
Q. Why would you use it as a basis for your 17:3
opinion? 17:3
A. Well, certainly I haven't seen a large number 17:3
of surveys of this nature, so, whereas it is a 17:3
Canadian cigarette, it certainly is another 17:3
example of a survey of this type. 17:3
Q. How many surveys -- can you define for me what 17:3
type of surveys these were? 17:3
A. They're surveys that look at individual 17:3
selections and choices for brands, what brands 17:3
they smoke. So there is smoking behavior, as 17:3
well as perhaps attitudes about how they make 17:3
the choices that they do. 17:3
Q. So these surveys pertain to choices among 17:3
brands, brand recognition, brand loyalty and 17:3
those types of issues? 17:3
A. That -- those are things that are included, 17:3
yes. 17:3
Q. You stated that you haven't seen many of these 17:3

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surveys. How many of these surveys were produced to you? 17:3

A. I believe there are maybe two or three that are produced here. I'm familiar with this type of survey, though, because advertising agencies conduct this type of research, and so I've seen these. 17:3

Q. How often do advertising agencies conduct these types of surveys? 17:3

A. I can't speak to that. I would imagine it would depend on the advertising agency, the research budget that they have for the brand, what the brand would dictate how much research -- usually research is conducted relevant to a need. 17:3

Q. If a company had a large advertising budget, would you expect to see many surveys? 17:3

A. Well, if they had a large advertising budget, and they also had a large research budget, then -- they -- that they were willing to spend money on research, then I would expect that a company that did that would have more surveys than one that didn't. 17:3

Q. Do you have any idea how many surveys the tobacco industry has conducted or produced 17:3

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over the last two years? 17:3
A. I don't have a sense of what that number is, 17:3
no. 17:3
Q. Do you have any sense of the regularity with 17:3
which the tobacco companies produced marketing 17:3
surveys? 17:3
A. I'm not familiar with how they conduct their 17:3
marketing surveys. 17:3
MR. HOHN: I didn't mean to cut 17:3
you off, but we are at six hours. 17:3
MS. TYLER: I would make a 17:3
representation on the record that if we can 17:3
work three hours tomorrow and work a little 17:3
later tonight, then I don't think we would 17:3
have to meet again. And I think that would be 17:3
the greatest convenience for the witness. 17:3
MR. HOHN: That's up to the 17:3
witness, if you want to work later on. I have 17:3
to leave because I have a 6:20 flight. 17:3
MR. McNEELY: I've got some 17:3
meetings coming up myself and the six-hour 17:3
rule is in place for a reason and -- 17:3
MR. HOHN: She's been through a 17:3
lot today. 17:3
MS. TYLER: I think we've had a 17:3

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good time. 17:35

MR. HOHN: Do you have an opinion 17:35
to offer on that? 17:35

MR. McNEELY: I would suggest we 17:35
follow the rules and pick up in the morning at 17:36
9:00 o'clock. 17:36

MR. HOHN: Surely can finish in 17:36
three hours tomorrow. You have to be getting 17:36
close. 17:36

MR. McNEELY: Why don't we go off 17:36
the record. 17:36

THE VIDEOGRAPHER: We're off at 17:36
5:36. 17:36

(Deposition adjourned at 5:36 17:36
p.m.). 17:36

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PATRICIA STOUT, Ph.D.

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WITNESS' SIGNATURE

STATE OF_____)
)
COUNTY OF_____)

I HEREBY CERTIFY that I have read the foregoing deposition and that this deposition, together with my corrections, is a true record of my testimony given at this deposition.

_____
PATRICIA STOUT, Ph.D.

SUBSCRIBED AND SWORN TO BEFORE ME this the _____ day of _____, 199___.

_____
Notary Public in and for the State of _____.

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REPORTER'S CERTIFICATE

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION

THE STATE OF TEXAS,	
VS.	CIVIL ACTION NO. 5-96CV91
THE AMERICAN TOBACCO COMPANY; R.J. REYNOLDS TOBACCO COMPANY; BROWN & WILLIAMSON TOBACCO CORPORATION; B.A.T. INDUSTRIES, P.L.C.; PHILIP MORRIS, INC.; LIGGETT GROUP, INC.; LORILLARD TOBACCO COMPANY, INC.; UNITED STATES TOBACCO COMPANY; HILL & KNOWLTON, INC.; THE COUNCIL FOR TOBACCO RESEARCH-USA, INC. (Successor to Tobacco Institute Research Committee); AND THE TOBACCO INSTITUTE, INC., Defendants	

* *

ORAL DEPOSITION OF PATRICIA STOUT, Ph.D.

* *

I, DEBORAH L. FITZPATRICK, Certified Shorthand Reporter for the State of Texas, do hereby certify that the facts stated by me in the caption hereof are true; that the said witness did make the above and foregoing answers in response to questions propounded as shown; that I did, in shorthand, report said proceedings, and

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that the above and foregoing typewritten pages contain a full, true and correct computer-aided transcription of my shorthand notes taken on said occasion.

I further certify that I am not in any capacity a regular employee of the party in whose behalf this deposition is taken, nor in the regular employ of any attorney of record; and I certify that I am not interested in the cause, nor a kin or counsel to either of the parties.

WITNESS MY HAND this the 26 day of August, 1997.

DLF

Deborah L. Fitzpatrick, CSR
Certified Shorthand Reporter
For the State of Texas
CSR No. 7151
Expiration Date: 12-31-99

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